
STATUTORY INSTRUMENTS

2019 No. 1085

**EXITING THE EUROPEAN
UNION, NORTHERN IRELAND
FOOD, NORTHERN IRELAND**

The Food and Feed Hygiene and Safety (Amendment
No.2) (Northern Ireland) (EU Exit) Regulations 2019

| | |
|--|-----------------------|
| <i>Sift requirements satisfied-</i> | <i>25th June 2019</i> |
| <i>Made - - - -</i> | <i>3th July 2019</i> |
| <i>Laid before Parliament-</i> | <i>5th July 2019</i> |
| <i>Coming into force in accordance with regulation 1</i> | |

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⁾.

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

There has been consultation 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⁽²⁾.

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Food and Feed Hygiene and Safety (Amendment No.2) (Northern Ireland) (EU Exit) Regulations 2019 and come into force on exit day.

⁽¹⁾ 2018 c. 16.

⁽²⁾ OJ No. L31, 1.2.2002, p.1, last amended by Regulation (EU) 2017/745 of the European Parliament and of the Council (OJ No. L 117, 5.5.2017, p. 1).

PART 2

Amendment of subordinate legislation

Amendment of the General Food Regulations (Northern Ireland) 2004

2.—(1) The General Food Regulations (Northern Ireland) 2004⁽³⁾ are amended as follows.

(2) In Regulation 2(1) (Interpretation), after the definition of “Regulation (EC) No 178/2002” insert ““third country” means a country or state other than the United Kingdom”.

(3) In Regulation 4 (Requirements under Regulation (EC) No. 178/2002: offences), for paragraph (a) (Article 12) substitute—

“(a) Article 12 (food and feed exported from the United Kingdom) in so far as it relates to food;”.

(4) In Regulation 6A—

(a) in paragraph (a), for “country that is not a member State” substitute “third country”;

(b) omit paragraph (b) and the “or” immediately preceding it.

Amendment of the Food Hygiene Regulations (Northern Ireland) 2006

3.—(1) The Food Hygiene Regulations (Northern Ireland) 2006⁽⁴⁾ are amended as follows.

(2) For Schedule 2, substitute Schedule 1 to these Regulations.

(3) In Schedule 3, in paragraph 10, for “one or more Community languages” substitute “English, or in English and in Welsh”.

Amendment of the Quick-frozen Foodstuffs (No. 2) Regulations (Northern Ireland) 2007

4.—(1) The Quick-frozen Foodstuffs (No. 2) Regulations (Northern Ireland) 2007⁽⁵⁾ are amended as follows.

(2) In regulation 2 (Interpretation)—

(a) in paragraph (1), omit the definition of “Directive 89/108”;

(b) in paragraph (2), omit “Directive 89/108,” in both places it occurs.

(3) In regulation 5(1) (Marking or Labelling of quick-frozen foodstuffs), for “any other description listed in Article 8.1(a) of Directive 89/108” substitute “its equivalent in any other language”.

(4) In regulation 5(2), for “any other description listed in Article 8.1(a) of Directive 89/108” substitute “its equivalent in any other language”.

(5) In regulation 5(3), for “any other description listed in Article 8.1(a) of Directive 89/108” substitute “its equivalent in any other language”.

(6) In regulation 5(3)(b), for “European Union” substitute “United Kingdom”.

Amendment of the Meat (Official Controls Charges) Regulations (Northern Ireland) 2009

5.—(1) The Meat (Official Controls Charges) Regulations (Northern Ireland) 2009⁽⁶⁾ are amended as follows.

(3) S.R. 2004 No. 505.

(4) S.R. 2006 No. 3.

(5) S.R. 2007 No. 110.

(6) S.R. 2009 No. 247.

(2) Omit regulation 2(2) (Interpretation).

(3) For the heading to Schedule 1 substitute, “DEFINITIONS OF RETAINED EU LAW”.

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

6.—(1) The Official Feed and Food Controls Regulations (Northern Ireland) 2009(7) are amended as follows.

(2) In regulation 2(1) (Interpretation), after the definition of “relevant food law” insert ““third country” means a country or state other than the United Kingdom”;

(3) In regulation 4 (Exchanging and providing information)—

(a) in paragraph (1), for “, other OFFC authorities and member States” substitute “and other OFFC authorities”;

(b) in paragraph (4), for “EU legislation”, substitute “retained EU law”.

(4) In regulation 5 (Obtaining information), at paragraph (1), omit “and member States”.

(5) In regulation 10 (Meaning of “enforcement authority” and related expressions), at paragraph (2), omit “but does not include the European Commission”.

(6) Omit regulations 13 (Staff of competent authority of another member state), 14 (Commission experts), and 15 (Prohibition on disclosure of trade secrets).

(7) In regulation 16 (Execution and enforcement)—

(a) omit paragraph (3);

(b) in paragraph (5) omit subparagraphs (a) and (b).

(8) In regulation 18 (Obstruction etc. of officers)—

(a) in subparagraph (1)(a), omit “13, 14 or”;

(b) in subparagraph (1)(b), omit “13, 14 or”;

(9) In regulation 19(2) (Penalties), omit “or regulation 15”.

(10) In regulation 21 (Interpretation of this Part), omit ““the relevant territories” means the territories referred to in Annex I to Regulation 882/2004”.

(11) In regulation 27(1) (Prohibition on introduction of certain feed and food), omit (b) and (d).

(12) Omit regulation 42 (Expenses arising in respect of co-ordinated assistance and follow-up by the Commission).

(13) In Schedule 4—

(a) in the first entry in Column 2 of the Table, omit the references to Articles 19(3), 34, 35(3) and (4), 36, 37(1), 38, 39, 40(2) and (4), and 52(1) of Regulation 882/2004.

(b) in the second entry in Column 2 of the Table, omit the references to Articles 34, 35(3), 36, 37(1), 38, 39, 40(2) and (4) of Regulation 882/2004.

(14) In Schedule 5—

(a) in the first entry in Column 2 of the Table, omit the references to Articles 19(3), 34, 35(3) and (4), 36, 37(1), 38, 39, 40(2) and (4), and 52(1) of Regulation 882/2004.

(b) in the second entry in Column 2 of the Table, omit the references to Articles 34, 35(3), 36, 37(1), 38, 39, 40(2) and (4) Regulation 882/2004.

(15) In Schedule 6 for the first entry in Column 2 of the Table, substitute—

(7) [S.R. 2009 No. 427](#).

“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).”.

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

7.—(1) The Plastic Kitchenware (Conditions on Imports from China) Regulations (Northern Ireland) 2011⁽⁸⁾ are amended as follows.

(2) In regulation 3(1) (Breach of conditions on import of plastic kitchenware from China), for “European Union”, substitute “United Kingdom”.

(3) In regulation 8(3)(a)(i) (Notices and actions in the case of non-compliance), for “European Union” substitute “United Kingdom”.

Amendment of the Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016

8.—(1) The Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016⁽⁹⁾ are amended as follows.

(2) In regulation 7 (Offence of failing to comply with any specified provision of Regulation 1829/2003)—

(a) in paragraph (2)(a), omit “(requirement that products in relation to which the Commission has adopted a measure under this Article must be withdrawn from the market)”;

(b) in paragraph (2)(c), omit “(requirement that an authorisation holder inform the Commission of any new scientific or technical information about a product which might affect the evaluation of the safety of its use in feed, or of any prohibition or restriction on the feed in a third country)”.

(3) In regulation 10(2)(d) (Offence of failing to comply with any specified provision of Regulation 1831/2003) for “Commission”, substitute “Food Safety Authority”

(4) In regulation 13(2)—

(a) omit sub-paragraph (a);

(b) in sub-paragraph (b), for “Commission” substitute “appropriate authority”.

(5) For Schedule 1, substitute Schedule 2 to these Regulations.

Revocations

9. The Food and Feed Hygiene and Safety (Amendment) (Northern Ireland) (EU Exit) Regulations 2019⁽¹⁰⁾ are hereby revoked.

⁽⁸⁾ S.R. 2011 No.236.

⁽⁹⁾ S.R. 2016 No.4.

⁽¹⁰⁾ S.I. 2019/652.

Signed by the authority of the Secretary of State for the Department of Health and Social Care

3th July 2019

Seema Kennedy
Parliamentary Under-Secretary of State,
Department of Health and Social Care

SCHEDULE 1

Regulation 3

SCHEDULE SUBSTITUTED FOR SCHEDULE 2 TO THE FOOD
HYGIENE REGULATIONS (NORTHERN IRELAND) 2006

“SCHEDULE 2

Regulations 2(1) and 17

SPECIFIED COMMUNITY PROVISIONS

| <i>1. Provision of retained EU law</i> | <i>2. Subject matter</i> |
|--|--|
| Article 3 of Regulation 852/2004 | Requirement that food business operators ensure that all stages of production, processing and distribution of food under their control satisfy the relevant hygiene requirements laid down in Regulation 852/2004. |
| Article 4(1) of Regulation 852/2004 | Requirement that food business operators carrying out primary production and specified associated operations comply with the general hygiene provisions laid down in Part A of Annex I to Regulation 852/2004 and any specific requirements provided for in Regulation 853/2004. |
| Article 4(2) of Regulation 852/2004 | Requirement that food business operators carrying out any stage of production, processing and distribution of food after those stages to which Article 4(1) applies comply with the general hygiene requirements laid down in Annex II to Regulation 852/2004 and any specific requirements provided for in Regulation 853/2004 and Regulation 579/2014. |
| Article 4(3) of Regulation 852/2004 | Requirement that food business operators, as appropriate, adopt certain specific hygiene measures. |
| Article 5(1) of Regulation 852/2004 | Requirement that food business operators put in place, implement and maintain a permanent procedure or procedures based on the HACCP principles. |
| Article 5(2) of Regulation 852/2004 | Requirement that when any modification is made in the product, process, or any step, food business operators review the procedure referred to in Article 5(1) and make the necessary changes to it. |
| Article 5(4)(a) of Regulation 852/2004 | Requirement that food business operators provide the competent authority with evidence of their compliance with Article 5(1). |
| Article 5(4)(b) of Regulation 852/2004 | Requirement that food business operators ensure that any documents describing the procedures developed in accordance with Article 5 are up to date. |

| <i>1. Provision of retained EU law</i> | <i>2. Subject matter</i> |
|--|---|
| Article 5(4)(c) of Regulation 852/2004 | Requirement that food business operators retain documents and records for an appropriate period. |
| Article 6(1) of Regulation 852/2004 | Requirement that food business operators co-operate with the competent authorities in accordance with United Kingdom law. |
| Article 6(2), first paragraph, of Regulation 852/2004 | Requirement that a food business operator notify the competent authority of each establishment under its control that carries out any of the stages of production, processing and distribution of food. |
| Article 6(2), second paragraph, of Regulation 852/2004 | Requirement that food business operators ensure that the competent authority has up to date information on establishments. |
| Article 6(3) of Regulation 852/2004 | Requirement that food business operators ensure that establishments are approved by the competent authority when approval is required. |
| Article 3(1) of Regulation 853/2004 | Requirement that food business operators comply with the relevant provisions of Annexes II and III to Regulation 853/2004. |
| Article 3(2) of Regulation 853/2004 | Requirement that food business operators do not use any substance other than potable water or, when Regulation 852/2004 or Regulation 853/2004 permits its use, clean water, to remove surface contamination from products of animal origin unless use of the substance has been approved. |
| Article 4(1) of Regulation 853/2004 | Requirement that food business operators place products of animal origin on the market only if they have been prepared and handled exclusively in establishments— (a) that meet the relevant requirements of Regulation 852/2004, those of Annexes II and III of Regulation 853/2004 and other relevant requirements of food law; and (b) that the competent authority has registered or, where required in accordance with Article 4(2), approved. |
| Article 4(2) of Regulation 853/2004 | Requirement that establishments handling those products of animal origin for which Annex III to Regulation 853/2004 lays down requirements do not operate unless the competent authority has approved them in accordance with Article 4(3). |
| Article 4(3) of Regulation 853/2004 | Requirement that establishments subject to approval in accordance with Article 4(2) do not |

Status: This is the original version (as it was originally made).

| 1. Provision of retained EU law | 2. Subject matter |
|---|---|
| | <p>operate unless the competent authority has, in accordance with Regulation 854/2004—</p> <p>(a) granted the establishment approval to operate following an on-site visit; or</p> <p>(b) provided the establishment with conditional approval.</p> |
| Article 4(4) of Regulation 853/2004 | Requirement that food business operators co-operate with the competent authorities in accordance with Regulation 854/2004 including ensuring that an establishment ceases to operate if it is no longer approved. |
| Article 5(1) of Regulation 853/2004 | <p>Requirement that food business operators do not place on the market a product of animal origin handled in an establishment subject to approval in accordance with Article 4(2) unless it has—</p> <p>(a) a health mark applied in accordance with Regulation 854/2004; or</p> <p>(b) when Regulation 854/2004 does not provide for the application of a health mark, an identification mark applied in accordance with Section 1 of Annex II to Regulation 853/2004.</p> |
| Article 5(2) of Regulation 853/2004 | Requirement that food business operators apply an identification mark to a product of animal origin only if the product has been manufactured in accordance with Regulation 853/2004 in establishments meeting the requirements of Article 4. |
| Article 5(3) of Regulation 853/2004 | Requirement that food business operators do not remove a health mark applied in accordance with Regulation 854/2004 from meat unless they cut or process it or work upon it in another manner. |
| Article 6(1) and (2) of Regulation 853/2004 | Requirement that food business operators ensure that importation of products of animal origin only takes place where certain conditions are met. |
| Article 6(3) of Regulation 853/2004 | <p>Requirement that food business operators importing products of animal origin shall ensure that—</p> <p>(a) products are made available for control upon importation in accordance with Council Directive 97/78/EC;</p> |

| <i>1. Provision of retained EU law</i> | <i>2. Subject matter</i> |
|--|--|
| | (b) importation complies with the requirements of Council Directive 2002/99/EC ; and |
| | (c) operations under their control that take place after importation are carried out in accordance with the requirements of Annex III to Regulation 853/2004. |
| Article 6(4) of Regulation 853/2004 | Requirement that food business operators importing food containing both products of plant origin and processed products of animal origin ensure that the processed products of animal origin satisfy the requirements of paragraphs (1) to (3) of Article 6. |
| Article 7 of Regulation 853/2004 | Requirement that food business operators ensure that certificates or other documents accompany consignments of products of animal origin when required in accordance with Annex II or III to Regulation 853/2004. |
| Article 7(1) of Regulation 2073/2005 | Requirement that food business operators take the measures laid down in paragraphs (2) to (4) of Article 7 when the results of testing against the criteria set out in Annex I to Regulation 2073/2005 (microbiological criteria for foodstuffs) are unsatisfactory. |
| Article 9 of Regulation 2015/1375 | Requirement that food business operators of holdings officially recognised as applying controlled housing conditions must inform the competent authority of any requirement of Annex IV to Regulation 2015/1375 that is no longer fulfilled or of any other change that might affect the holdings' <i>Trichinella</i> status." |

SCHEDULE 2

Regulation 8

SCHEDULE SUBSTITUTED FOR SCHEDULE 1 TO THE ANIMAL FEED
(COMPOSITION, MARKETING AND USE) REGULATIONS (NORTHERN IRELAND) 2016

"SCHEDULE 1

Regulation 12

Specified Provisions of Regulation 767/2009

Table 1

| <i>Specified provision</i> | <i>Subject matter</i> |
|---|--|
| Article 4(1) and (2), as read with Article 4(3) and Annex I | General safety and other requirements to be met when feed is placed on the market or used. |

Status: This is the original version (as it was originally made).

| <i>Specified provision</i> | <i>Subject matter</i> |
|--|--|
| Article 5(1) | Extension of requirements in relation to feed for food-producing animals in other legislation to apply to feed for non food-producing animals. |
| Article 5(2), as read with Article 12(1), (2) and (3) | Obligation on person responsible for labelling to make information available to competent authority. |
| Article 6(1), as read with Annex III | Prohibition or restriction on the marketing or use of certain materials for animal nutritional purposes |
| Article 8 | Controls on the levels of additives in feeds. |
| Article 9 | Controls on the marketing of feeds for particular nutritional purposes. |
| Article 11, as read with Article 12(1), (2) and (3), Annexes II and IV and the Catalogue of feed materials | Rules and principles governing the labelling and presentation of feed. |
| Article 12(4) and (5) | Designation of the person responsible for labelling and the obligations and responsibilities of that person. |
| Article 13(1), as read with Article 12(1), (2) and (3) | General conditions on making a claim about the characteristics or functions of a feed on the labelling or presentation of it. |
| Article 13(2) and (3), as read with Article 12(1), (2) and (3) | Special conditions applying to claims concerning optimisation of the nutrition and support or protection of the physiological conditions. |
| Article 14(1) and (2), as read with Article 12(1), (2) and (3) | Requirements for the presentation of the mandatory labelling particulars. |
| Article 15, as read with Articles 12(1), (2) and (3) and 21 and with Annex VI and VII | General mandatory labelling requirements for feed materials and compound feeds. |
| Article 16, as read with Article 12(1), (2) and (3) and 21 and with Annex II and V and the Catalogue of feed materials | Specific labelling requirements for feed materials |
| Article 17(1) and (2) as read with Articles 12(1), (2) and (3) and 21 and with Annex II, VI & VII | Specific labelling requirements for compound feeds. |
| Article 18, as read with Article 12(1), (2) and (3) | Additional labelling requirements for feed for particular nutritional purposes (dietetic feeds). |
| Article 19, as read with Article 12(1), (2) and (3) | Additional labelling requirements for pet food. |
| Article 20(1) as read with Article 12(1), (2) and (3) and with Annex VIII | Additional requirements for labelling of non-compliant feed, such as that containing contaminated materials. |
| Article 23 | Requirements relating to the packaging and sealing of feed materials and compound feeds for placing on the market. |

| <i>Specified provision</i> | <i>Subject matter</i> |
|----------------------------|--|
| Article 24(2) | Requirement that if the name of a feed material listed in the Catalogue of feed materials is used, all relevant provisions of the Catalogue must be complied with. |
| Article 24(3) | Obligation on a person who first places on the market a feed material not listed in the Catalogue of feed materials to notify its use.” |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations revoke Statutory Instrument 2019/652; “The Food and Feed Hygiene and Safety (Amendment) (Northern Ireland) (EU Exit) Regulations 2019”.

These Regulations make amendments to subordinate legislation in the field of food and feed hygiene and safety.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.