

SCOTTISH STATUTORY INSTRUMENTS

2019 No. 169

EXITING THE EUROPEAN UNION HORTICULTURE

The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019

Made - - - - 15th May 2019

Laid before the Scottish

Parliament - - - - 17th May 2019

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ^{F1}, paragraph 1(1) and (3) of schedule 2, and paragraph 21(b) of schedule 7, of the European Union (Withdrawal) Act 2018 ^{F2} and all other powers enabling them to do so.

F1 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the [Scotland Act 1998 \(c.46\)](#) (“the 1998 Act”) (which was amended by section 27(4) of the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by Part 1 of the schedule of the [European Union \(Amendment\) Act 2008 \(c.7\)](#). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The European Communities Act 1972 is prospectively repealed by section 1 of the [European Union \(Withdrawal\) Act 2018 \(c.16\)](#) from exit day (see [section 20](#) of that Act).

F2 2018 c.16.

PART 1

INTRODUCTION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force—

(a) as regards this Part and Part 2, on 1 July 2019,

*Status: Point in time view as at 31/12/2020.**Changes to legislation: There are currently no known outstanding effects for the The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019. (See end of Document for details)*

- (b) as regards Part 3, on exit day.
- (2) These Regulations extend to Scotland only.

Commencement Information

I1 [Reg. 1](#) in force at 1.7.2019, see [reg. 1\(1\)\(a\)](#)

PART 2**AMENDMENT OF REFERENCES IN SECONDARY LEGISLATION****Amendment of the Marketing of Bananas (Scotland) Regulations 2012**

2. In regulation 2(1) (interpretation) of the Marketing of Bananas (Scotland) Regulations 2012^{F3}, in the definition of “Council Regulation 2013”, for “the Regulation of the European Parliament and of the Council adopted on 16 December 2013” substitute “ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 ”.

F3 [S.S.I. 2012/349](#), amended by [S.I. 2013/3235](#).

Commencement Information

I2 [Reg. 2](#) in force at 1.7.2019, see [reg. 1\(1\)\(a\)](#)

PART 3**AMENDMENT OF SECONDARY LEGISLATION RELATING
TO WITHDRAWAL FROM THE EUROPEAN UNION****Amendment of the Marketing of Horticultural Produce (Scotland) Regulations 2009**

3.—(1) The Marketing of Horticultural Produce (Scotland) Regulations 2009^{F4} are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “EU marketing rules”,
- (b) in the definition of “horticultural produce” omit “EU”,
- (c) after the definition of “label” insert—

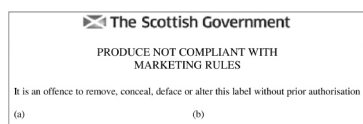
““marketing rules” means the general marketing standard and the specific marketing standards covering fresh fruit and vegetables listed in Part IX of Annex I to Council Regulation 2013 and includes the rules relating to those standards contained in Articles 74, 75 and 76 of that Council Regulation and in Title II of Commission Implementing Regulation 543/2011;”,

- (d) in the definition of “non compliance label” omit “EU”.

(3) In regulation 3(2) (designations and information disclosure)—

- (a) omit “EU”,
- (b) for “Secretary of State,” substitute “ Secretary of State or ”,

- (c) omit “or the European Commission”.
- (4) In regulation 5(1)(h) (authorised officer: other powers) omit “EU”.
- (5) In regulation 6(1) (authorised officer: power to affix a non compliance label) omit “EU”.
- (6) In regulation 7 (authorised officer: power to affix a non compliance label)—
- (a) in paragraph (1) omit “EU”,
 - (b) in paragraph (3)(b) omit “EU”,
 - (c) in paragraph (4)(b) omit “EU”.
- (7) In regulation 8(1) (authorised officer: power to affix a non compliance label) omit “EU” in each place it occurs.
- (8) In regulation 9(2) (authorised officer: requirement to serve a notice in terms of regulations 6, 7 and 8) omit “EU” in each place it occurs.
- (9) In regulation 10(2)(e) (authorised officer: powers to control the movement of horticultural produce) omit “EU”.
- (10) In regulation 13 (authorised officer: consents to the movement of controlled horticultural produce)—
- (a) in paragraph (2)(a) omit “EU”,
 - (b) in paragraph (3)(a)(ii) omit “EU”.
- (11) In regulation 15 (EU marketing rules offences)—
- (a) in the heading, omit “EU”,
 - (b) in paragraph (3)(a) omit “EU”,
 - (c) in paragraph (4) omit “EU”,
 - (d) in paragraph (5) omit “EU”,
 - (e) in paragraph (6)(a) omit “EU” in both places it occurs,
 - (f) in paragraph (7)—
 - [^{F5}(i) for “the European Union” substitute “Great Britain”]
 - (ii) omit “EU”.
- (12) In regulation 18(1)(c) (obstruction) omit “EU” in both places it occurs.
- ^{F6}(13)
- (14) In schedule 1 (form and completion of labels), for the non compliance label in Part 1 (form of non compliance label), substitute—



- F4** [S.S.I. 2009/225](#), amended by [S.S.I. 2011/324](#), [S.I. 2011/1043](#), [S.I. 2013/3235](#) and [S.S.I. 2018/391](#).
- F5** Reg. 3(11)(f)(i) substituted (31.12.2020 immediately before IP completion day) by [The Agriculture \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/368\)](#), regs. 1(2), **4(2)**
- F6** Reg. 3(13) revoked (31.12.2020 immediately before IP completion day) by [The Seed, Propagating Material and Common Agricultural Policy \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/289\)](#), regs. 1(b), 7; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

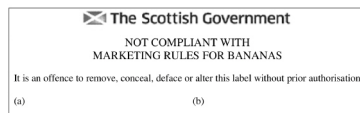
- I3** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)\(b\)](#)

Amendment of the Marketing of Bananas (Scotland) Regulations 2012

- 4.—**(1) The Marketing of Bananas (Scotland) Regulations 2012 are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) omit the definition of “EU marketing rules”,
 - (b) in the definition of “inspection body” omit “of a member State”,
 - (c) after the definition of “label” insert—

““marketing rules” means any of the minimum requirements, classification, sizing, presentation and marking standards provided for in Article 1 and Annex I of Commission Regulation 1333/2011, subject to the tolerances in Point IV of that Annex;”,
 - (d) in the definition of “non compliance label” omit “EU”.
- (3) In regulation 3(2) (designations, provision of information and appointment of authorised officers)—
- (a) omit “EU”,
 - (b) omit “in other member States and”,
 - (c) omit “or” before sub-paragraph (b),
 - (d) omit sub-paragraph (b).
- (4) In regulation 4 (EU marketing rules: offences)—
- (a) in the heading omit “EU”,
 - (b) in paragraph (1) omit “EU”,
 - (c) in paragraph (3)(a) omit “EU”,
 - (d) in paragraph (4) omit “EU”,
 - (e) in paragraph (5) omit “EU”,
 - (f) in paragraph (6) omit “EU” in both places it occurs,
 - (g) in paragraph (7)—
 - [^{F7}(i) for “the European Union” substitute “Great Britain”]
 - (ii) omit “EU”.
- (5) In regulation 7(1)(f) (other powers) omit “EU”.
- (6) In regulation 8 (power to affix labels) omit “EU”.
- (7) In regulation 9 (power to affix a non compliance label)—
- (a) in paragraph (1)(a) omit “EU”,
 - (b) in paragraph (2)(a) omit “EU”,
 - (c) in paragraph (3)(a) omit “EU”.
- (8) In regulation 10 (power to affix a non compliance label) omit “EU” in each place it occurs.
- (9) In regulation 11(2) (requirement to serve a notice in terms of regulation 9 or 10) omit “EU” in each place it occurs.
- (10) In regulation 12(2)(e) (powers to control the movement of bananas) omit “EU”.

- (11) In regulation 14(3)(a)(ii) (consents to the movement of controlled bananas) omit “EU”.
- (12) In schedule 1 (provisions under Commission Regulation 1333/2011), in column 2 of the table omit “Article 4,” in both places it occurs.
- (13) In schedule 2 (form and completion of labels), for the non compliance label in Part I (form of non compliance label) substitute—



F7 Reg. 4(4)(g)(i) substituted (31.12.2020 immediately before IP completion day) by [The Agriculture \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/368\)](#), regs. 1(2), **4(3)**

Commencement Information

I4 Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)\(b\)](#)

St Andrew's House,
Edinburgh

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019. (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made principally in exercise of the powers in the European Union (Withdrawal) Act 2018 to address deficiencies in EU-derived domestic legislation in Scotland arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of horticulture.

Part 2 (regulation 2), made in exercise of powers under the European Communities Act 1972, makes a technical amendment to secondary legislation concerning horticulture to give effect to EU law, to update a reference to an EU Regulation.

Part 3 (regulations 3 and 4), made in exercise of powers in the European Union (Withdrawal) Act 2018, makes amendments to secondary legislation concerning horticulture consequential on the United Kingdom's withdrawal from the European Union.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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