

## SCOTTISH STATUTORY INSTRUMENTS

**2019 No. 285**

# **EXITING THE EUROPEAN UNION FOOD**

## **The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019**

*Made - - - - 10th September 2019*

*Laid before the Scottish*

*Parliament - - - - 12th September 2019*

*Coming into force in accordance with regulation 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 <sup>F1</sup> and all other powers enabling them to do so.

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.

**F1** [2018 c.16.](#)

### **Citation, commencement and extent**

**1.—**(1) These Regulations may be cited as the Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force on exit day.

(2) These Regulations extend to Scotland only.

### **Commencement Information**

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

### **Amendment of the Quick-frozen Foodstuffs Regulations 1990**

**2.—**(1) The Quick-frozen Foodstuffs Regulations 1990 <sup>F2</sup> are amended as follows.

(2) In regulation 7 (penalties and enforcement) after paragraph (1C) insert—

“(1D) A person is to be considered not to have contravened or failed to comply with regulation 5(3)(b) in the following circumstances—

- (a) a quick-frozen foodstuff subject to regulation 5(3)(b) is marked or labelled on its packaging, container or wrapping, or on a label attached to it, with the name or business name and address of the manufacturer or packer, or of a seller established within the European Union,
- (b) this would not have constituted a contravention of regulation 5(3)(b) immediately before [<sup>F3</sup> IP completion day], and
- (c) the quick-frozen foodstuff is placed on the market no later than 21 months after the day after [<sup>F3</sup> IP completion day].”.

**F2** S.I. 1990/2615; relevantly amended by S.I. 2011/1043 and will be relevantly amended by S.S.I. 2019/53 on exit day.

**F3** Words in reg. 2(2) substituted (31.12.2020 immediately before IP completion day) by The Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/372), regs. 1(2)(a), 9(2)

#### Commencement Information

**I2** Reg. 2 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)

### Amendment of the Food Hygiene (Scotland) Regulations 2006

3.—(1) The Food Hygiene (Scotland) Regulations 2006 <sup>F4</sup> are amended as follows.

(2) In regulation 17 (offences and penalties)—

(a) in paragraph (1), for “(8)” substitute “ (9) ”,

[<sup>F5</sup>(b) after paragraph (8), insert—

“(9) Provided the requirements of subparagraph (a) or (b), as the case may be, are met, a person is to be considered not to have contravened or failed to comply with Article 5(1) of (EU) Regulation 853/2004, where—

(a) in the case of a health mark—

- (i) the health mark was applied to a product of animal origin subject to Article 5(1) before IP completion day, and
- (ii) the health mark complied with Article 5(1) as it applied immediately before IP completion day,

(b) in the case of an identification mark—

(i) the identification mark—

- (aa) was applied to a product of animal origin subject to Article 5(1) before IP completion day, or
- (bb) is applied to a product of animal origin subject to Article 5(1) no later than 21 months after the day after IP completion day using a label, wrapping or packaging (bearing the identification mark) owned by the food business operator before IP completion day, and

(ii) the identification mark complied or would have complied with Article 5(1) as it applied immediately before IP completion day.”.]

**F4** [S.S.I. 2006/3](#); relevantly amended by [S.I. 2011/1043](#).

**F5** Reg. 3(2)(b) substituted (31.12.2020 immediately before IP completion day) by [The Food and Feed \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/372\)](#), regs. 1(2)(a), **9(3)**

#### 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\(1\)](#)

### Amendment of the Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013

4.—(1) The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013 <sup>F6</sup> are amended as follows.

(2) After regulation 15 (offences and penalties) insert—

#### “Transitional provision: withdrawal from the EU

**15A.** A person is to be considered not to have contravened regulation 11(2), as it applies to regulation 12(1)(d), in the following circumstances—

- (a) an extraction solvent has the name or business name and address of the manufacturer or packer, or of a seller established in the territory of the European Union, appearing on the packaging, container or label,
- (b) this would have complied with regulation 11(2), as it applies to regulation 12(1)(d) immediately before [<sup>F7</sup>IP completion day], and
- (c) the extraction solvent is placed on the market no later than 21 months after the day after [<sup>F7</sup>IP completion day].”.

**F6** [S.S.I. 2013/266](#); relevantly amended by [S.S.I. 2019/53](#).

**F7** Words in reg. 4(2) substituted (31.12.2020 immediately before IP completion day) by [The Food and Feed \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/372\)](#), regs. 1(2)(a), **9(4)**

#### 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\(1\)](#)

### Amendment of the Honey (Scotland) Regulations 2015

5.—(1) The Honey (Scotland) Regulations 2015 <sup>F8</sup> are amended as follows.

(2) In regulation 2 (general interpretation) after the definition of “in trade” insert the following definition—

““trading bloc” means a group of nations united by trade agreements.”.

(3) In regulation 16 (additional labelling requirements) for paragraph (1) substitute—

“(1) No person may trade in honey unless the country or countries of origin where the honey has been harvested is indicated on the label except that if the honey originates in more than one country, the countries may be replaced with one of the following indications (or similar wording) as appropriate—

[<sup>F9</sup>“blends of honeys from more than one country”,

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

**Changes to legislation:** There are currently no known outstanding effects for the The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019. (See end of Document for details)

“blend of honeys from (*insert name of a specified continent or trading bloc*)”,  
 “blend of honeys from outwith (*insert name of a specified continent or trading bloc*)”,  
 “blend of honeys from (*insert name of a specified country*) and (*other countries*)”,  
 “blend of honeys from (*insert name of a specified continent or trading bloc*) and outwith (*insert name of a specified continent or trading bloc*)”, or  
 “blend of honeys from (*insert name of a specified country or specified continent or trading bloc*) and (*other countries*)”.”].

(4) After regulation 17 (penalties and enforcement) insert—

#### “Methods of analysis

**17A.** In carrying out its obligations under regulation 17, a food authority must, whenever possible, use internationally recognised validated methods of analysis such as those approved by the Codex Alimentarius.”.

**F8** [S.S.I. 2015/208](#).

**F9** Words in [reg. 5\(3\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Food and Feed \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/372\)](#), [regs. 1\(2\)\(a\), 9\(5\)](#)

#### Commencement Information

**I5** Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Amendment of the Caseins and Caseinates (Scotland) (No. 2) Regulations 2016

**6.—(1)** The Caseins and Caseinates (Scotland) (No. 2) Regulations 2016 <sup>F10</sup> are amended as follows.

(2) In regulation 5(1)(d) (labelling of edible acid caseins, edible rennet caseins and edible caseinates) for “European Union”, in both places where it occurs, substitute “United Kingdom”.

(3) After regulation 6 (offences and penalties) insert—

#### “Transitional provisions: withdrawal from the EU

**6A.—(1)** A person is to be considered to have complied with regulation 5(1)(d) in the following circumstances—

- (a) edible acid caseins, edible rennet caseins or edible caseinates are marked with the name, or business name, and address of the food business operator under whose name, or business name, the product is marketed or, if that food business operator is not established in the European Union, the importer into the European Union market,
- (b) this would have complied with regulation 5(1)(d) as it applied immediately before [<sup>F11</sup>IP completion day], and
- (c) the edible acid caseins, edible rennet caseins or edible caseinates are placed on the market no later than 21 months after the day after [<sup>F11</sup>IP completion day].

(2) A person is to be considered to have complied with regulation 5(1)(e) in the following circumstances—

- (a) edible acid caseins, edible rennet caseins or edible caseinates imported from a third country are marked with the name of the country of origin,

- (b) this would have complied with regulation 5(1)(e) as it applied immediately before [F11IP completion day], and
- (c) the edible acid caseins, edible rennet caseins or edible caseinates are placed on the market no later than 21 months after the day after [F11IP completion day].
- (3) In this regulation, “third country” means any country other than the United Kingdom.”.

**F10** [S.S.I. 2016/422](#).

**F11** Words in [reg. 6\(3\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Food and Feed \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/372\)](#), [regs. 1\(2\)\(a\)](#), [9\(6\)](#)

#### **Commencement Information**

**I6** Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

St Andrew's House,  
Edinburgh

*JOE FITZPATRICK*  
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 Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019. (See end of Document for details)

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (as defined in section 8(2) and (3) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to subordinate legislation in the field of food composition, food labelling and food standards in relation to Scotland.

A business and regulatory impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sector is foreseen.

**Status:**

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019.