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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 477**

**FOOD**

**The Food (Withdrawal of Recognition) (Miscellaneous Amendments) (Scotland) Regulations 2021**

*Made* - - - - 15th December 2021  
*Laid before the Scottish Parliament* - - - - 17th December 2021  
*Coming into force* - - 22nd February 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 16(1)(e), 26(1) and 48(1) of the Food Safety Act 1990(1), 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(2).

The Scottish Ministers have had regard to relevant advice given by Food Standards Scotland in accordance with section 48(4A)(3) of the Food Safety Act 1990.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Food (Withdrawal of Recognition) (Miscellaneous Amendments) (Scotland) Regulations 2021 and come into force on 22 February 2022.

(2) These Regulations extend to Scotland only.

**Amendment of the Bread and Flour Regulations 1998**

2.—(1) The Bread and Flour Regulations 1998(4) are amended as follows.

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

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- (1) 1990 c. 16; section 16(1) and 48(1) were amended by the Food Standards Act 1999 (c. 28) (“the 1999 Act”), schedule 5, paragraph 8. Section 26(3) was partially repealed by the 1999 Act, schedule 6.
- (2) EUR 178/2002, to which there are amendments, but none are relevant.
- (3) Section 48 was amended by section 3 of the Food (Scotland) Act 2015 (asp 1) (“the 2015 Act”), to substitute references to the Food Standards Agency for Food Standards Scotland. Section 48(6) was inserted by section 3 of the 2015 Act, in its application to Scotland, to read references to the Food Standards Agency as references to Food Standards Scotland. Section 48(4A) was inserted by schedule 5, paragraph 21 of the 1999 Act.
- (4) S.I. 1998/141, relevantly amended by S.I. 2011/1043 and S.S.I. 2012/1809.

- (a) omit the definition of “EEA Agreement”,
- (b) omit the definition of “EEA State”,
- (c) omit the definition of “member State”,
- (d) after the definition of “sell” insert—
  - ““third country” means any country, other than the United Kingdom, and includes—
  - (a) the Bailiwick of Guernsey,
  - (b) the Bailiwick of Jersey,
  - (c) the Isle of Man,”.
- (3) In regulation 3 (exemptions)—
  - (a) for paragraph (2), substitute—
    - “(2) These Regulations do not apply in respect of—
    - (a) any bread produced in Scotland which is to be exported to a third country,
    - (b) any flour produced in Scotland which is—
      - (i) to be exported to a third country or
      - (ii) for use in the production of food that is to be exported to a third country,
    - (c) any flour imported into Scotland from a third country (directly or indirectly) which—
      - (i) was lawfully produced and sold in that third country, and
      - (ii) is for use in Scotland, for the production of food that is to be exported to a third country,

and is suitably labelled to describe the nature of the bread or flour.”,
  - (b) omit paragraph (3).
- (4) In regulation 4 (composition of flour)—
  - (a) in the opening words of paragraph (4)(b), for “importer of flour” substitute “person”,
  - (b) in paragraph (4)(b)(i), for “import into Great Britain” substitute “import or move into Scotland”,
  - (c) in paragraph 4(b)(ii), after “imported” insert “or moved”,
  - (d) in paragraph (5), for “or importation into Great Britain” substitute “importation or movement into Scotland”.
- (5) After regulation 7(2) (offences and penalties) insert—
  - “(3) Bread or flour which was, or would have been, exempted from these Regulations by virtue of regulation 3(2), as it had effect immediately before 22 February 2022, is not subject to these Regulations until 1 October 2022.”.

#### **Amendment of the Jam and Similar Products (Scotland) Regulations 2004**

- 3.—**(1) The Jam and Similar Products (Scotland) Regulations 2004(5), are amended as follows.
- (2) In regulation 2(1) (interpretation)—
    - (a) omit the definition of “EEA State”,
    - (b) omit the definition of “free circulation”.
  - (3) In regulation 3 (scope of the regulations)—

- (a) in paragraph (1), for “paragraphs (2) and (3)”, substitute “paragraph (2),”;
  - (b) omit paragraph (3).
- (4) For regulation 9 (transitional provisions) substitute—

**“Transitional provisions**

**9.—**(1) A product which was, or would have been, outside the scope of these Regulations by virtue of regulation 3(3), as it had effect immediately before 22 February 2022, is not subject to these Regulations until 1 October 2022.”.

**Amendment of the Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008**

**4.—**(1) The Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008(6), are amended as follows.

- (2) Omit regulation 3 (exemptions from these Regulations).
- (3) After regulation 8 (revocations) insert—

**“Transitional provisions**

**9.—**(1) A product which was, or would have been, outside the scope of these Regulations by virtue of regulation 3, as it had effect immediately before 22 February 2022, is not subject to these Regulations until 1 October 2022.”.

**Amendment of the Products Containing Meat etc. (Scotland) Regulations 2014**

**5.—**(1) The Products Containing Meat etc. (Scotland) Regulations 2014(7) are amended as follows.

- (2) In regulation 3 (scope)—
  - (a) in paragraph (1) for “paragraphs (2) and (3)”, substitute “paragraph (2)”;
  - (b) omit paragraph (3),
  - (c) in paragraph (4) omit the definition of “EEA State”.
- (3) After regulation 8 (revocations) insert—

**“Transitional provisions**

**9.** A product which was, or would have been, outside the scope of these Regulations by virtue of regulation 3(3), as it had effect immediately before 22 February 2022, is not subject to these Regulations until 1 October 2022.”.

St Andrew’s House,  
Edinburgh  
15th December 2021

*MAREE TODD*  
Authorised to sign by the Scottish Ministers

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(6) [S.S.I. 2008/216](#), relevantly amended by [S.S.I. 2012/1909](#).  
(7) [S.S.I. 2014/289](#), to which there are amendments not relevant to these Regulations.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations remove exemptions for certain products in the following Regulations as a result of the United Kingdom's exit from the European Union (EU).

Regulation 2 amends the Bread and Flour Regulations 1998 ([S.I. 1998/141](#)) by removing the exemptions from those Regulations for certain bread and flour from an EEA State or EU member State. It also creates new exemptions in relation to bread and flour and products intended for export to third countries. Regulation 2 also introduces a transitional period during which the existing exemptions continue to apply until 1 October 2022.

Regulation 3 amends the Jam and Similar Products (Scotland) Regulations 2004 ([S.S.I. 2004/133](#)) to make equivalent provision for jam and similar products.

Regulation 4 amends the Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008 ([S.S.I. 2008/216](#)) to make equivalent provision for spreadable fats and margarine. Regulation 5 amends the Products Containing Meat etc. (Scotland) Regulations 2014 ([S.S.I. 2014/289](#)) to make equivalent provision for certain meat products.

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