
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 361

The Agriculture (Retained EU Law and Data) (Scotland)
Act 2020 (Consequential Modifications) and Agricultural
Products, Aquatic Animal Health and Genetically Modified
Organisms (EU Exit) (Amendment) Regulations 2022

PART 2

Amendment of retained direct EU legislation

Council Regulation (EC) No 1234/2007

2.—(1) Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)(1) is amended as follows.

(2) In Article 113a (additional requirements for the marketing of the products of the fruit and vegetables sector)—

(a) In paragraph (4)—

- (i) from the beginning to “Article 194” substitute “Without prejudice to any regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (ii) omit “in the Member States”,
- (iii) in the second place it occurs, for “Member States” substitute “the appropriate authority”,
- (iv) for “check selectively” substitute “ensure selective checking”.

(b) after paragraph (4) insert—

“(4a) For the purposes of this Article—

“the appropriate authority” is, in relation to Scotland, the Scottish Ministers,

“third country” means any country or territory other than—

- (i) the United Kingdom;
- (ii) the Bailiwick of Guernsey;
- (iii) the Bailiwick of Jersey;
- (iv) the Isle of Man.”.

(3) In Article 114(2) (marketing standards for milk and milk products)—

(1) EUR 2007/1234, repealed by EUR 2013/1308. The provisions of EUR 2007/1234 amended by regulation 2 continue to apply by virtue of Article 230(1)(c) of EUR 2013/1308, which was amended by [S.I. 2019/1422](#).

Changes to legislation: There are currently no known outstanding effects for the The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (Consequential Modifications) and Agricultural Products, Aquatic Animal Health and Genetically Modified Organisms (EU Exit) (Amendment) Regulations 2022, PART 2. (See end of Document for details)

- (a) in the first place it occurs, for “Community law” substitute “retained EU law and regulations made under section 9(1) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020,”,
 - (b) for “the Community” substitute “Great Britain”.
- (4) In Article 117(1) (certification for hops), for “the Community” substitute “Great Britain”.
- (5) In Annex XIV (marketing standards for products of the eggs and poultrymeat sectors referred to in Article 116)—
- (a) in Part B (marketing standards for poultrymeat), in point I (scope)—
 - (i) in paragraph 2(a), for “the Community” substitute “Great Britain”,
 - (ii) in paragraph 3—
 - (aa) for “Member States may derogate from” substitute “Nothing in this Regulation prevents the relevant authority from using any power that authority has to provide that”,
 - (bb) after “of this Regulation” insert “do not apply”,
 - (cc) at the end, insert “The relevant authority is, in relation to Scotland, the Scottish Ministers.”,
 - (b) in Part C (marketing standards for the production and marketing of eggs for hatching and of farmyard poultry chicks), in point I (scope)—
 - (i) in the heading, after “Scope” insert “and definition of third country”,
 - (ii) in paragraph 1, for “the Community” substitute “Great Britain”,
 - (iii) after paragraph 2 insert—
 - “3. For the purposes of this Part, “third country” means any country or territory other than—
 - (i) the United Kingdom;
 - (ii) the Bailiwick of Guernsey;
 - (iii) the Bailiwick of Jersey;
 - (iv) the Isle of Man.”.
- (6) In Annex XV (marketing standards applying to spreadable fats referred to in Article 115), in Point II (labelling and presentation)—
- (a) in paragraph 1, for “[Directive 2000/13/EC](#)” substitute “Regulation (EU) 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers⁽²⁾”,
 - (b) in paragraph 3, for “Community” substitute “retained EU law”,
 - (c) omit paragraph 6.

Commencement Information

II [Reg. 2](#) in force at 2.2.2023, see [reg. 1](#)

Commission Regulation (EC) No 543/2008

3.—(1) Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat(3) is amended as follows.

(2) In Article 1, for “Article 75(1)(g) of Regulation (EC) No 1308/2013” substitute “section 10(1) (d) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, excluding live poultry,”.

(3) In Article 9(12)—

(a) from the beginning to “indications, the” substitute “The”,

(b) after “indication”, insert “authorised by section 8(5A) of the Weights and Measures Act 1985(4)”.

(4) In Article 13, for “Article 75(3)(g) of Regulation (EU) No 1308/2013” substitute “Article 11(1) of this Regulation”.

(5) In Article 20(4), for “Articles 17 and” substitute “Article”.

Commencement Information

I2 Reg. 3 in force at 2.2.2023, see reg. 1

Commission Regulation (EC) 617/2008

4. In Article 3(5) (marking of eggs for hatching and their packaging) of Commission Regulation (EC) 617/2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks(5), for “and with” to the end substitute “, those provided for in Articles 78(1) and 89 of Regulation (EU) 1308/2013, its implementing regulations and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.”.

Commencement Information

I3 Reg. 4 in force at 2.2.2023, see reg. 1

Commission Regulation (EC) 543/2011

5.—(1) Commission Regulation (EC) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors(6) is amended as follows.

(2) In Article 3(2) (marketing standards; holders), omit “referred to in Article 75(1)(b) of Regulation (EU) No 1308/2013”.

(3) In Article 8 (scope), for “and of Article 75 ” to the end substitute “, Article 76 of Regulation (EU) No 1308/2013 and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.”.

(4) In Article 10(1) (trader database), for “pursuant to Article 75 of Regulation (EU) No 1308/2013” substitute “including in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(3) EUR 2008/543, relevantly amended by S.I. 2019/1422.

(4) 1985 c. 72, relevantly amended by S.I. 1994/2867 and S.I. 2009/3046.

(5) EUR 617/2008, relevantly amended by S.I. 2019/1422.

(6) EUR 2011/543, relevantly amended by S.I. 2019/822.

Changes to legislation: There are currently no known outstanding effects for the The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (Consequential Modifications) and Agricultural Products, Aquatic Animal Health and Genetically Modified Organisms (EU Exit) (Amendment) Regulations 2022, PART 2. (See end of Document for details)

(5) In Article 11(1) (conformity checks), for “and of” to the end substitute “, of Article 76 of Regulation (EC) 1308/2013 and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.”.

Commencement Information

I4 Reg. 5 in force at 2.2.2023, see reg. 1

Regulation (EU) No 1308/2013 of the European Parliament and of the Council

6.—(1) Commission Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007(7) is amended as follows.

(2) In Article 11 (products eligible for public intervention), for “pursuant to Articles 19 or 20” substitute “under any of Articles 19 and 20 of this Regulation and section 11 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(3) In Article 13(4) (public intervention), for “Article 7(1)” substitute “Article 1a of Council Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products(8)”.

(4) In Article 17 (eligible products) for “pursuant to Articles 18, 19 or 20” substitute “under any of Articles 18, 19 and 20 of this Regulation and section 11 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(5) In Article 76(1) (additional requirements for marketing of products in the fruit and vegetables sector), omit “referred to in Article 75”.

(6) In Article 80(1) (oenological practices and methods of analyses)—

(a) omit “point (g) of Article 75(3) and”,

(b) after “and (3)” insert “of this Regulation, Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files(9), and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020,”.

(7) In Article 83(1) (rules for certain products and sectors), for “Notwithstanding Article 75(2), nothing” substitute “Nothing”.

(8) In Article 85 (existing optional reserved terms)—

(a) in paragraph 1, for “shall be laid down pursuant to point (a) of Article 86” substitute “may be laid down in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,

(b) in paragraph 2, omit “pursuant to Article 86”.

(9) In Article 90(2) (special provisions for the imports of wine)—

(7) EUR 2013/1308, relevantly amended by S.I. 2019/821, S.I. 2019/831 and S.I. 2019/1422.

(8) EUR 2013/1370, relevantly amended by S.I. 2019/1422.

(9) EUR 2019/934, relevantly amended by S.I. 2020/637 and S.I. 2021/632.

- (a) in paragraph (1), after “Article 78 of this Regulation” insert “and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, insofar as they relate to wine,”,
- (b) in paragraph (2)—
 - (i) after “this Regulation or” insert “regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, or”,
 - (ii) omit “pursuant to Article 80(3)”.
- (10) In Article 228(9) (regulations: the Secretary of State), omit point (a).
- (11) In Article 230(1)(c) (repeals)—
 - (a) before “Article 117(1)” insert “and”,
 - (b) omit “and point (e)(iv) of Article 121”,
 - (c) after “of this Regulation” insert “, and section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.
- (12) In Annex VII (definitions, designations and sales description of products referred to in Article 78)—
 - (a) in Part II (categories of grapevine products)—
 - (i) in paragraph (1) (wine)—
 - (aa) in sub-paragraph (c), for “under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (bb) in sub-paragraph (d), for “under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (ii) in paragraph (3) (liqueur wine)—
 - (aa) in sub-paragraph (b), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (bb) in sub-paragraph (c), in the fourth indent, for “under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (cc) in sub-paragraph (d), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (dd) in sub-paragraph (f), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (iii) in paragraph 6(a) (quality aromatic sparkling wine), for “on any list” to the end substitute “set out in the list in the Appendix to Annex II to Regulation (EU) 2019/934, or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020;”,
 - (iv) in paragraph (12) (partially fermented grape must extracted from raisined grapes), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (v) in paragraph (13) (concentrated grape must), after for “Article 91” insert “of this Regulation or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,

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- (vi) in paragraph (14)(a)(i) (rectified concentrated grape must), after “Article 91” insert “of this Regulation or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (b) in Part VI (eggs of hens of the *Gallus gallus* species), in point I(1) (scope) omit “Article 75 concerning”,
- (c) in Part VIII (descriptions and definitions of olive oil and olive pomace oils)—
 - (i) in paragraph (1) (virgin olive oils)—
 - (aa) in sub-paragraph (a), for “accordance with Article 75(2)” substitute “Commission Regulation (EEC) 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis⁽¹⁰⁾, Commission Implementing Regulation (EU) No 29/2012 on marketing standards for olive oil (codification)⁽¹¹⁾ and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (bb) in paragraphs (b) and (c), for “accordance with Article 75(2)” substitute “Regulation (EEC) 2568/91, Regulation (EU) 29/2012, and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (ii) in points (2) to (6), for “accordance with Article 75(2)” substitute “Regulation (EEC) 2568/91, Regulation (EU) 29/2012, and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.
- (13) In Annex VIII (oenological practices referred to in Article 80)—
 - (a) in Part 1 (enrichment, acidification and de-acidification in certain wine-growing zones)—
 - (i) in Section C, in paragraph 7 for “made under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (ii) in Section D, in paragraphs 1 and 4, for “under Article 75(2)” substitute “in Regulation (EU) 2019/934 or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (b) in Part 2 (restrictions), in Section D, in paragraph 5, for “prescribed under Article 75(2)” substitute “set out in Article 14 of Regulation (EU) 2019/934 and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commencement Information

I5 [Reg. 6](#) in force at 2.2.2023, see [reg. 1](#)

Regulation (EU) No 251/2014 of the European Parliament and of the Council

7. In Article 4(4) (production processes and methods of analysis for aromatised wine products) of Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products⁽¹²⁾—

- (a) For “in accordance with Articles 74, 75(4) and 80 of” substitute “in Annex VIII to”,

⁽¹⁰⁾ EUR 1991/2568, relevantly amended by [S.I. 2019/1422](#).

⁽¹¹⁾ EUR 2012/29, relevantly amended by [S.I. 2019/1422](#).

⁽¹²⁾ EUR 2014/251.

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- (b) after “Regulation (EU) No 1308/2013” insert “, Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files, and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commencement Information

I6 [Reg. 7](#) in force at 2.2.2023, see [reg. 1](#)

Commission Delegated Regulation (EU) 2018/273

8.—(1) Commission Delegated Regulation (EU) 2018/273 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations [\(EC\) No 555/2008](#), [\(EC\) No 606/2009](#) and [\(EC\) No 606/2009](#) and repealing Commission Regulation [\(EC\) No 436/2009](#) and Commission Delegated Regulation (EU) 2015/560(**13**) is amended as follows.

(2) In Article 29(1) (operations to be recorded in the register), after “Regulation (EU) 1308/2013” insert “, regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(3) In Article 45 (notification of suspicion of non-compliance), after “Regulation (EU) No 1308/2013” insert “or with regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(4) In Article 47 (penalties relating to accompanying documents and VI-1 documents for non-conformity with certain rules in retained EU law), after “Regulation (EU) No 1308/2013” insert “or with regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commencement Information

I7 [Reg. 8](#) in force at 2.2.2023, see [reg. 1](#)

Commission Implementing Regulation (EU) 2018/274

9.—(1) In Article 14(1)(a)(v) (products to be entered in the register) of Commission Implementing Regulation (EU) 2018/274 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission Implementing Regulation (EU) 2015/561(**14**), after “Regulation (EU) No 1308/2013” insert “, regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(13) EUR 2018/273, relevantly amended by [S.I. 2020/1637](#).

(14) EUR 2018/274, relevantly amended by [S.I. 2020/1637](#).

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Commencement Information

I8 [Reg. 9](#) in force at 2.2.2023, see [reg. 1](#)

Commission Delegated Regulation (EU) 2019/33

10. In Article 40(1) (presentation of compulsory particulars) of Commission Delegated Regulation (EU) 2019/33 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation⁽¹⁵⁾, after “Regulation (EU) 1308/2013” insert “and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commencement Information

I9 [Reg. 10](#) in force at 2.2.2023, see [reg. 1](#)

Commission Delegated Regulation (EU) 2019/934

11.—(1) Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files is amended as follows.

- (2) In Article 4(1)(a) (experimental use of new oenological practices)—
- (a) omit “and Article 80(3)(b) to (e)”;
 - (b) after “Regulation (EU) No 1308/2013” insert “and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”;
- (3) In Article 7(1) (definition of coupage), omit “point (h) of Article 75(3) and”.
- (4) In Article 9(1) (the purity and identification specifications of substances used in oenological practices), for “Article 75(3)(f) of Regulation 1308/2013” substitute “this regulation”.

Commencement Information

I10 [Reg. 11](#) in force at 2.2.2023, see [reg. 1](#)

Commission Implementing Regulation (EU) 2019/935

12. In Article 2 (applicable analysis methods) of Commission Implementing Regulation (EU) 2019/935 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards analysis methods for determining the physical, chemical and organoleptic characteristics of grapevine products and notifications of Member States decisions concerning increases in natural alcoholic strength⁽¹⁶⁾, omit “referred to in point (d) of Article 75(5) of Regulation (EU) No 1308/2013”.

⁽¹⁵⁾ EUR 2019/33, relevantly amended by [S.I. 2020/1637](#).

⁽¹⁶⁾ EUR 2019/935, relevantly amended by [S.I. 2020/1637](#).

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Commencement Information

III [Reg. 12](#) in force at 2.2.2023, see [reg. 1](#)

Changes to legislation:

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