

2023 No. 312

PROFESSIONAL QUALIFICATIONS

ANIMALS

FOOD

**The Animal Welfare and Food Safety (International Professional
Qualification Recognition Agreement Implementation)
(Miscellaneous Amendment) (Scotland) Regulations 2023**

Made - - - - *31st October 2023*

Laid before the Scottish Parliament *2nd November 2023*

Coming into force - - *1st December 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 3 and 13(1) of the Professional Qualifications Act 2022(a), sections 30(9) and 48(1)(b) of the Food Safety Act 1990(b) and all other powers enabling them to do so.

In accordance with section 14 of the Professional Qualifications Act 2022 the Scottish Ministers are satisfied that these Regulations do not remove the ability of any regulator of a regulated profession to prevent individuals who are unfit to practise the profession from doing so, and that the regulations will not have a material adverse effect on any regulated profession in terms of the knowledge, skills or experience of the individuals practising it.

In accordance with section 15 of that Act the Scottish Ministers have consulted with the regulator affected by these Regulations.

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- (a) 2022 c. 20. Section 3 confers power to make regulations on “the appropriate national authority”. In accordance with section 16, the Scottish Ministers are an appropriate national authority in relation to regulations under this Act which contain only provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (b) 1990 c. 16. Section 30(9) was amended by the Food Standards Act 1999 (c. 28) (“the 1999 Act”), schedule 5, paragraph 8. Amendments made by schedule 5 of the 1999 Act which extend to Scotland are to be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c. 46) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. In so far as not transferred, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

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

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 Food Safety Authority and laying down procedures in matters of food safety, as it has effect in EU law(b).

Citation and commencement

1. These Regulations may be cited as the Animal Welfare and Food Safety (International Professional Qualification Recognition Agreement Implementation) (Miscellaneous Amendment) (Scotland) Regulations 2023 and come into force on 1 December 2023.

Amendment of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012

2.—(1) The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012(c) are amended as follows.

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

(a) after the definition of “EU Regulation”, insert—

““the Professional Qualifications Regulations 2023” means the recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023(d).”.

(b) in the definition of “qualification certificate”—

(i) in sub-paragraph (ab), omit “or” and

(ii) after sub-paragraph (ab), insert—

“(ac) a qualification which has been recognised under Part 2 of the Professional Qualifications Regulations 2023 in relation to an operation specified in regulation 5, or”.

(3) In regulation 25 (appeals), after paragraph (1), insert—

“(1A) A person who is aggrieved by a decision of the competent authority not to recognise a qualification under Part 2 of the Professional Qualifications Regulations 2023 in relation to an operation specified in regulation 5 may appeal to the sheriff against the decision.

(1B) In paragraph (1A), the reference to a decision of the competent authority not to recognise a person’s qualification under Part 2 of the Professional Qualifications Regulations 2023 is to be treated as including any failure by the competent authority to notify the applicant of its decision concerning the person’s application within the period of four months beginning with the day after the day on which the person submitted a complete application to the competent authority under Part 2 of the Professional Qualifications Regulations 2023.”.

(a) Section 48(4A) was inserted by schedule 5, paragraph 21 of the 1999 Act. Section 48(6) was inserted by schedule 1, paragraph 3(11) of the Food (Scotland) Act 2015 (asp 1) and brought into force by S.S.I. 2015/99. Section 48(6) applies the whole of section 48, including section 48(4A) and states that in the application of section 48 to Scotland, where references are made to the Food Standards Agency, these are to be read as references to Food Standards Scotland.

(b) EUR 178/2002. The duty to consult under section 48(4) of the Food Safety Act 1990 does not apply in this case as under subsection (4C) subsection (4) does not apply in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002.

(c) S.S.I. 2012/321; relevant amending instruments are S.S.I. 2015/161, S.S.I. 2019/288 and S.S.I. 2020/380.

(d) S.I. 2023/XXXX.

Amendment of the Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013

3.—(1) The Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013^(a) are amended as follows.

(2) In schedule 2 (qualifications of food examiners)—

- (a) in part 1 in paragraph 7, after “European Union” insert “, Iceland, the Principality of Liechtenstein or the Kingdom of Norway”.
- (b) in part 2—
 - (i) in paragraph 2, after “European Union” insert “, Iceland, the Principality of Liechtenstein or the Kingdom of Norway”,
 - (ii) In paragraph 4, after “European Union” insert “, Iceland, the Principality of Liechtenstein or the Kingdom of Norway”.

GILLIAN MARTIN

Authorised to sign by the Scottish Ministers

St Andrew’s House
Edinburgh
31st October 2023

^(a) S.S.I. 2013/84; relevant amending instrument is S.S.I. 2019/52.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend legislation relating to persons who may carry out the killing of animals or act as a food examiner in Scotland for the purpose of, and in connection with, implementing provisions relating to the recognition of professional qualifications contained in the free trade agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway (“the specified EFTA states”) and the United Kingdom of Great Britain and Northern Ireland made at London on 8 July 2021.

Regulation 2 amends the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 to allow for the recognition of qualifications attained in the specified EFTA states relating to slaughter operations.

Regulation 3 amends Schedule 2 (qualifications of food examiners) of the Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013 to include qualifications relevant to food examination attained from universities in, and aggregate time spent examining food in government and university laboratories in, the specified EFTA states.

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