
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Nutrition (Amendment etc.) (EU Exit) Regulations 2019

PART 4

AMENDMENT OF EU REGULATIONS

Amendment of Regulation (EU) No 609/2013

19.—(1) Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council [Directive 92/52/EEC](#), Commission Directives [96/8/EC](#), [1999/21/EC](#), [2006/125/EC](#) and [2006/141/EC](#), [Directive 2009/39/EC](#) of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 is amended as follows.

- (2) In Article 1 (subject matter), in paragraph 2, for “Union” substitute “UK”.
- (3) In Article 2 (definitions), after paragraph (h) insert—
 - “(i) ‘UK list’ means the list set out in the Annex.”.
- (4) In Article 3 (interpretation decisions)—
 - (a) for the first paragraph, substitute “The appropriate authority may make regulations specifying.”;
 - (b) omit the final paragraph.
- (5) In Article 4 (placing on the market), omit paragraph 3.
- (6) In Article 6 (general provisions), for “Union law” in each place where those words appear substitute “retained EU law”.
- (7) Omit Articles 7 and 8.
- (8) In Article 9 (general compositional and information requirements), in paragraph 4, for “Article 1 of Regulation (EC) No 258/97” substitute “Regulation (EU) 2015/2283”.
- (9) In Article 11 (specific compositional and information requirements)—
 - (a) in paragraph 1—
 - (i) omit the words from “Subject to the general requirements” to “article 10, and”;
 - (ii) for the words from “the Commission” to “Article 18” substitute “and having regard to such scientific opinion as an appropriate authority considers appropriate, the appropriate authority may make regulations”;
 - (iii) in sub-paragraph (b) omit the words from “The specific requirements” in the second place they appear to the end of that sub-paragraph;
 - (iv) in sub-paragraph (d) omit the words from “and on the basis” until the end of that sub-paragraph;
 - (v) omit the words “Those delegated acts shall be adopted by 20 July 2015.”.
 - (b) omit paragraph 2.

(10) Omit Articles 12 and 13.

(11) In Article 14 (technical guidelines)—

- (a) for “The Commission” substitute “The Secretary of State, the Scottish Ministers, the Welsh Ministers and in relation to Northern Ireland, the Department of Health”;
- (b) for “SMEs” substitute “small or medium sized enterprises as defined in the Annex to Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises”;
- (c) after “Chapter III”, insert—
“, as it applies in their territory.

For the purposes of this Article, the Annex to Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises⁽¹⁾ is to be read as if—

(a) in Article 2—

- (i) in paragraph 1, for “EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million” there were substituted “£44,000,000, and/or an annual balance sheet total not exceeding £38,000,000”;
- (ii) in paragraph 2, for “EUR 10 million” there were substituted “£8,800,000”;
- (iii) in paragraph 3, for “EUR 2 million” there were substituted “£1,750,000”;

(b) in Article 3—

- (i) in paragraph 2(a), for “EUR 1 250 000” there were substituted “£1,100,000”;
- (ii) in paragraph 2(d), for “EUR 10 million” there were substituted “£8,800,000”;
- (iii) in paragraph 5, for “by national or Community rules” there were substituted “under the law of the United Kingdom (or any part of it)”;

(c) in Article 5, in paragraph (b), for “national law” there were substituted “the law of the United Kingdom (or any part of it).”.

(12) In the heading to Chapter III, substitute “UK list”.

(13) In Article 15—

- (a) for “Union list” in the heading and in each place where those words appear substitute “UK list”;
- (b) in paragraphs 4 and 5, for “Union law” substitute “retained EU law and any other legislation applying in any part of the United Kingdom”;
- (c) in paragraph 5, omit “Member States may maintain national rules setting stricter purity criteria.”;
- (d) in paragraph 6, for the words from “the Commission” to “Article 18” substitute “an appropriate authority may make regulations in relation to the categories of substances listed in paragraph 1 of this Article”.

(14) In Article 16 (updating the union list)—

- (a) for “Union list” in the heading and in each place where those words appear, substitute “UK list”;
- (b) in paragraph 1—
(i) omit the words from “Subject to the general requirements” to “article 11, and”;

(1) OJ L 124, 20.5.2003, p. 36.

- (ii) for the words from “the Commission” to “Article 18 to” substitute “the appropriate authority may by regulations”;
 - (c) omit paragraph 2.
- (15) After Article 16, in Chapter IV (procedural provisions) insert—

“Article 16A

Regulations

1. Any power to make regulations under this Regulation may be exercised by the Secretary of State for the whole or part of the United Kingdom if consent is given by—
 - (a) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (b) for regulations applying in relation to Wales, the Welsh Ministers;
 - (c) for regulations applying in relation to Northern Ireland, the Department of Health.
2. Regulations made under this Regulation may—
 - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);
 - (b) make different provision for different purposes.
3. In this Regulation—

“appropriate authority” means:

 - (a) for regulations applying in relation to England, the Secretary of State;
 - (b) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (c) for regulations applying in relation to Wales, the Welsh Ministers;
 - (d) for regulations applying in relation to Northern Ireland, the Department of Health;

“enactment” includes any enactment of the types specified in the definition of ‘enactment’ in section 20(1) of the European Union (Withdrawal) Act 2018.

Article 16B

Regulations: Secretary of State

1. Any power of the Secretary of State to make regulations under this Regulation is exercisable by statutory instrument.
2. A statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

Article 16C

Regulations: The Scottish Ministers

1. For regulations made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.
2. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Article 16D

Regulations: The Welsh Ministers

1. Any power of the Welsh Ministers to make regulations under this Regulation is exercisable by statutory instrument.
2. A statutory instrument containing regulations made under regulation 2 by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

Article 16E

Regulations: Northern Ireland

1. Any power of the Department of Health to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
 2. Regulations made under this Regulation by the Department of Health are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.”.
- (16) Omit Articles 17 to 20.
- (17) In Article 21—
- (a) in paragraph 1, omit the second sentence;
 - (b) after paragraph 2, insert—
- “3. In this Article, any reference to compliance with a provision of the Directive is to be read as a reference to complying with that provision as would be required if the provision formed part of domestic law.”.
- (18) Omit Article 22.
- (19) In the heading to the Annex, for “Union list” substitute “UK list”.