

*Draft Regulations laid before Parliament under paragraphs 1(1) and 8F(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2020 No. 0000**

**EXITING THE EUROPEAN UNION  
FOOD  
WEIGHTS AND MEASURES**

The Food (Amendment) (EU Exit) Regulations 2020

*Made* - - - -

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*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) and 8C of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1).

In accordance with paragraphs 1(1) and 8F(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

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).

**PART 1**

**Introductory**

**Citation and commencement**

1. These Regulations may be cited as the Food (Amendment) (EU Exit) Regulations 2020 and come into force—

- (a) as regards this regulation and regulations 3, 4 and 5, immediately before IP completion day;
- (b) as regards regulation 2 and Part 3, on IP completion day.

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(1) 2018 c. 16, amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(2) OJ No. L 31, 1.2.2002, p. 1, to which there are amendments not relevant to these Regulations.

## PART 2

### Amendment of subordinate legislation

#### The Food (Lot Marking) Regulations 1996

2. In regulation 4 of the Food (Lot Marking) Regulations 1996<sup>(3)</sup>, after paragraph (g) insert—

- “(h) a sales unit of food that is a qualifying Northern Ireland good within the meaning given to it from time to time in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018.”.

#### The Food (Amendment) (England) (EU Exit) Regulations 2019

3.—(1) The Food (Amendment) (England) (EU Exit) Regulations 2019<sup>(4)</sup> are amended as follows.

(2) In regulation 3—

(a) for paragraph (2)(a) substitute—

“(a) in the definition of “authorised activated alumina treatment” for paragraph (b) substitute—

“(b) in the case of natural mineral water or spring water brought into England from Scotland or Wales, a treatment which complies with Articles 1 to 3 of [Commission Regulation \(EU\) No 115/2010](#)<sup>(5)</sup>;

(c) in the case of natural mineral water or spring water brought into England from Northern Ireland or from an EEA State, a treatment which complies with Articles 1 and 2 of [Commission Regulation \(EU\) No 115/2010](#) as it has effect in EU law;

(d) in the case of natural mineral water or spring water brought into England from a country outside the UK and the EEA, a treatment which complies with Articles 1 and 2 of [Commission Regulation \(EU\) No 115/2010](#)”;

(b) for paragraph (3) substitute—

“(3) For regulation 3(1)(d) substitute—

“(d) is a natural mineral water intended for—

(i) movement into Northern Ireland;

(ii) export to a third country.”;

(c) for paragraph (4)(a)(iii)(bb) substitute—

“(bb) for paragraph (ii) substitute—

“(ii) it has equivalent recognition in Northern Ireland granted by the Agency in accordance with regulation 4(2)(d)(i) of, and Part 2 of Schedule 1 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015<sup>(6)</sup>, or

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(3) [S.I. 1996/1502](#), relevant amending instruments are [S.I. 2014/1855](#), [S.I. 2014/2303 \(W. 227\)](#), [S.S.I. 2014/312](#) and [S.I. 2018/806 \(W. 162\)](#).

(4) [S.I. 2019/150](#).

(5) [OJ No. L 37, 10.02.2010, p. 13-15](#).

(6) [S.R. 2015/365](#), as it will be prospectively amended by [S.R. 2019/353](#).

- (iii) it has equivalent recognition in Scotland granted by the Agency in accordance with regulation 4(1)(d)(i) of, and Part 2 of Schedule 3 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007(7), or
- (iv) it has equivalent recognition in Wales granted by the Agency in accordance with regulation 4(2)(d)(i) of, and Part 2 of Schedule 1 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015(8).”;

### **The Food (Amendment) (EU Exit) Regulations 2019**

- 4.—(1) The Food (Amendment) (EU Exit) Regulations 2019(9) are amended as follows.
- (2) Omit regulation 2.
  - (3) In regulation 3(2)(a), in the substituted text, for “exit” substitute “IP completion”.
  - (4) In regulation 5—
    - (a) in paragraph 2(b), for “the United Kingdom” substitute “Great Britain”;
    - (b) in paragraph (19), in the substituted text, for “exit” substitute “IP completion”.
  - (5) In Schedule 1, in the substituted text—
    - (a) omit point (b);
    - (b) renumber point (c) as point (b);
    - (c) renumber point (d) as point (c).
  - (6) In Schedule 2—
    - (a) for Part 1 substitute the Part in the Schedule;
    - (b) in Part 2, in the substituted text—
      - (i) in point (a)—
        - (aa) omit point (ii);
        - (bb) renumber point (iii) as point (ii);
        - (cc) renumber point (iv) as point (iii);
      - (ii) in point (b)—
        - (aa) omit point (ii);
        - (bb) renumber point (iii) as point (ii);
        - (cc) renumber point (iv) as point (iii);
    - (c) in Part 3, for the inserted text substitute—

“The specified legislation is:

      - (a) the Weights and Measures (Miscellaneous Foods) Order 1988(10);
      - (b) the Weights and Measures (Packaged Goods) Regulations 2006(11).”;

(7) S.S.I. 2007/483 amended by S.S.I. 2009/273 and S.S.I. 2011/1043.

(8) S.I. 2015/1867 (W. 274), as it will be prospectively amended by S.I. 2019/1046 (W. 185).

(9) S.I. 2019/529.

(10) S.I. 1988/2040, amended by S.I. 1990/1550, 1994/2868, 2006/659, 2009/663, 2014/2975.

(11) S.I. 2006/659, amended by the Consumer Rights Act 2015 (2015 c. 15), section 78, and by SI 2013/1478, 2014/2975, 2015/1630, 2019/5.

- (d) in Part 4, in the substituted text—
  - (i) omit point (b);
  - (ii) renumber point (c) as point (b);
  - (iii) renumber point (d) as point (c).

### **The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019**

**5.—**(1) The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019<sup>(12)</sup> are amended as follows.

- (2) In regulation 2, in the inserted text—
  - (a) in paragraph (6), for “exit” substitute “IP completion”;
  - (b) in paragraph (12), for “exit” in each place it occurs, substitute “IP completion”.
- (3) In regulation 4—
  - (a) in paragraph 2—
    - (i) in the words before the inserted text, for “(z)” substitute “(z1);
    - (ii) in the inserted text—
      - (aa) renumber point “(z1)” as point “(z2)”;
      - (bb) renumber point “(z2)” as point “(z3)”;
      - (cc) renumber point “(z3)” as point “(z4)”;
  - (b) in paragraph (4)(a)(i), for “referred to in” substitute “acts referred to in”;
  - (c) in paragraph (12)—
    - (i) in sub-paragraph (b), in the substituted text, after “subject to” insert—
 

“Commission Implementing Regulation (EU) No 2018/775<sup>(13)</sup> laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food and”;
    - (ii) in sub-paragraph (c), in the substituted paragraph, in point (b), after “1337/2013” insert “or Regulation (EU) No 2018/775”;
  - (d) for paragraph (17)(b)(i) substitute—
 

“(i) for “the Commission may adopt implementing acts” substitute “regulations may be made”;;”.
- (4) In the Schedule, in the substituted text—
  - (a) in Article 51—
    - (i) in paragraph 2—
      - (aa) in the words before point (a), for “the United Kingdom” substitute “Great Britain”;
      - (bb) omit point (a);
      - (cc) renumber point (b) as point (a);
      - (dd) renumber point (c) as point (b);
    - (ii) in paragraph 3—

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<sup>(12)</sup> S.I. 2019/778.

<sup>(13)</sup> OJ No. L 131, 29.5.2018, p. 8-11.

- (aa) in the words before point (a), for “the United Kingdom” substitute “Great Britain”;
  - (bb) omit point (b);
  - (cc) renumber point (c) as point (b);
  - (dd) renumber point (d) as point (c);
- (b) in Article 51a—
- (i) in paragraph 1(a), for the words from “9(1)(e)” to the end substitute “9(1)(e), by the Secretary of State”;
  - (ii) in paragraph 2—
    - (aa) in the words before point (a), for “the United Kingdom” substitute “Great Britain”;
    - (bb) omit point (a);
    - (cc) renumber point (b) as point (a);
    - (dd) renumber point (c) as point (b);
- (c) in Article 51b(1), for the words from “exercisable” to the end substitute “exercisable by the Secretary of State”;
- (d) omit Article 51d;
- (e) renumber Article 51e as Article 51d;
- (f) renumber Article 51f as Article 51e.

## PART 3

### Amendment of retained direct EU legislation

#### **Regulation (EU) No 1169/2011 of the European Parliament and of the Council**

6. In Article 34(5) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers<sup>(14)</sup> in the second subparagraph, omit the second sentence.

#### **Commission Implementing Regulation (EU) No 2018/775**

7.—(1) Commission Implementing Regulation (EU) No 2018/775<sup>(15)</sup> laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food is amended as follows.

- (2) In Article 1(2)—
- (a) omit “Regulation (EC) No 110/2008 or”;
  - (b) after “251/2014” insert “or Regulation (EU) No 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages<sup>(16)</sup>”.

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<sup>(14)</sup> OJ No. L 304, 22.11.2011, p.18, to which there are amendments not relevant to these regulations.

<sup>(15)</sup> OJ No. L131, 29.5.2018, p. 8-11.

<sup>(16)</sup> OJ No. L130, 17.5.2019, p. 1-54.

(3) After Article 1 insert—

*“Article 1A*

*Definitions*

In this Regulation:

‘country’, in relation to the United Kingdom, means the United Kingdom as a whole and does not mean any of the individual constituent nations forming part of the United Kingdom;

‘retained EU law’ has the meaning given in section 6(7) of the European Union (Withdrawal) Act 2018 but does not include any legislation so far as it extends to Northern Ireland.”.

(4) In Article 2(a)—

(a) in point (ii), for the words from “either” to “countries” substitute “in more than one country”;

(b) in point (iv), for “Member State(s) or third” substitute “the name of the relevant”;

(c) in point (v) omit “Member State or within a third”;

(d) in point (vi), for “Union provisions” substitute “provisions in legislation which form part of retained EU law”.

(5) In Article 4, omit the fourth paragraph.

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

## SCHEDULE

Regulation 4

The Food (Amendment) (EU Exit) Regulations 2019, Schedule 2, Part 1: substituted Part

### “PART 1

Article 2(2), new points: points (v) to (z1)

- “(v) ‘the appropriate authority’ means:
- (i) as regards type B regulations, the Secretary of State;
  - (ii) in all other cases:
    - (aa) in relation to England, the Secretary of State;
    - (bb) in relation to Scotland, the Scottish Ministers;
    - (cc) in relation to Wales, the Welsh Ministers;
- (w) ‘enactment’ includes enactments of the type specified in paragraphs (a) to (d) of the definition of ‘enactment’ in section 20(1) of the European Union (Withdrawal) Act 2018 but not enactments of the type specified in paragraphs (e) to (h);
- (x) ‘EU-derived domestic legislation’ has the meaning given in section 1B(7) of the European Union (Withdrawal) Act 2018 but does not include:
- (i) any legislation that only extends to Northern Ireland;
  - (ii) any other legislation in so far as it extends to Northern Ireland;
- (y) ‘retained direct EU legislation’ has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018 but does not include retained direct EU legislation insofar as it extends to Northern Ireland;
- (z) ‘type A regulations’, in any provision of this Regulation, means:
- (i) in relation to England, any regulations made by the Secretary of State under the Food Safety Act 1990<sup>(17)</sup> using a power in that Act that enables the Secretary of State to make regulations relating to the matter specified in the provision in question;
  - (ii) in relation to Scotland, any regulations made by the Scottish Ministers under the Food Safety Act 1990 using a power in that Act that enables them to make regulations relating to the matter specified in the provision in question;
  - (iii) in relation to Wales, any regulations made by the Welsh Ministers under the Food Safety Act 1990 using a power in that Act that enables them to make regulations relating to the matter specified in the provision in question;
- (z1) ‘type B regulations’, in any provision of this Regulation, means regulations made by the Secretary of State under the Weights and Measures Act 1985<sup>(18)</sup> using a power in that Act that enables the Secretary of State to make regulations relating to the matter specified in the provision in question.””

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(17) 1990 c.16.

(18) 1985 c.72.

## EXPLANATORY NOTE

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

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies, in particular under section 8(1) arising from the withdrawal of the United Kingdom from the European Union and to take into account the position of Northern Ireland under the Northern Ireland Protocol under section 8C.

Part 2 amends the Food (Lot Marking) Regulations 1996 (S.I. 1996/1502), the Food (Amendment) (England) (EU Exit) Regulations 2019 (S.I. 2019/150), the Food (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/529) and the Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/778). These amendments adjust amendments made in those Regulations to take into account the position of Northern Ireland under the Northern Ireland Protocol in the agreement between the United Kingdom and the European Union under Article 50(2) of the Treaty on European Union.

Part 3 amends retained direct EU legislation relating to food and drink.

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