

Draft Regulations laid before Parliament under paragraph 8F(1) of Schedule 7 and paragraph 13(1) and (3) of Schedule 8 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

**AGRICULTURE
FOOD**

**The Food and Feed Safety (Miscellaneous Amendments
and Transitional Provisions) Regulations 2021**

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations apart from regulations 4, 5 and 6 in exercise of the powers conferred by sections 16(1)(a), (c) and (e), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990(1), and now vested in the Secretary of State(2).

In accordance with section 48(4A) of that Act the Secretary of State has had regard to relevant advice given by the Food Standards Agency.

The Secretary of State makes regulation 4 in exercise of the powers conferred by section 8C of the European Union (Withdrawal) Act 2018(3).

The Secretary of State makes regulations 5 and 6 of these Regulations in exercise of the powers conferred by section 8(1)(b) of and paragraph 21 of Schedule 7 to that Act.

In accordance with paragraph 8F(1) of Schedule 7 and paragraph 13(1) and (3) of Schedule 8 to that Act a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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

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- (1) 1990 c. 16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Section 48 was amended by paragraph 21 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28), “the 1999 Act”. Section 48 was also amended by S.I. 2004/2990. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c. 40), Schedule 6 to the 1999 Act, S.I. 2004/2990 and S.I. 2004/3279.
 - (2) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28), “the 1999 Act”. Those functions, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c. 32). Those functions, so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46) as read with section 40(2) of the 1999 Act.
 - (3) 2018 c. 16. Section 8C was inserted by section 21 of the European Union (Withdrawal Agreement) Act 2020 (2020 c. 1) and section 8C(5A) was inserted by section 55(3) of the United Kingdom Internal Market Act 2020 (2020 c. 27).

Food Safety Authority and laying down procedures in matters of food safety⁽⁴⁾, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Food and Feed Safety (Miscellaneous Amendments and Transitional Provisions) Regulations 2021.

(2) These Regulations, apart from Part 2, come into force 21 days after the day on which these Regulations are made.

(3) Part 2 of these Regulations comes into force on the day after the day on which these Regulations are made.

PART 2

Amendment of subordinate legislation that applies in England

The Quick-frozen Foodstuffs (England) Regulations 2007

2.—(1) The Quick-frozen Foodstuffs (England) Regulations 2007⁽⁵⁾ are amended as follows.

(2) After regulation 11 insert—

“Transitional provisions: withdrawal from the EU

12. For the purpose of regulation 9(1), a person is not considered to have contravened or failed to comply with regulation 5(1) if—

- (a) a product does not comply with regulation 5(4)(b);
- (b) the alleged contravention would relate to a product that was placed on the market on or after the day on which the Food and Feed Safety (Miscellaneous Amendments and Transitional Provisions) Regulations 2021⁽⁶⁾ came into force and before the last day of the period of 21 months beginning with the day on which IP completion day falls; and
- (c) the matter constituting the alleged contravention would not have constituted a contravention of these Regulations as they applied immediately before IP completion day.”.

⁽⁴⁾ EUR 178/2002 as amended by S.I. 2019/641 and 2020/1504.

⁽⁵⁾ S.I. 2007/191 as amended by S.I. 2011/1043, 2014/1855 and 2019/462.

⁽⁶⁾ S.I. 2021/XXX.

Amendment of the Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013

3.—(1) The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013(7) are amended as follows.

(2) After regulation 22 insert—

“Transitional provisions: withdrawal from the EU

23.—(1) An authorised officer must not serve on a person a compliance notice relating to a failure to comply with regulation 13(2) if—

- (a) a product does not comply with regulation 14(1)(d);
- (b) the compliance notice would relate to a product that was placed on the market before the last day of the period of 21 months beginning with the day on which IP completion day falls; and
- (c) the matter constituting the alleged failure to comply would not have constituted a failure to comply with these Regulations as they applied immediately before IP completion day.

(2) In this regulation, “compliance notice” means a compliance notice pursuant to regulation 7.”.

PART 3

Amendment of retained direct EU legislation

Amendment 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

4.—(1) 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(8) is amended as follows.

(2) In Article 53(1)—

(a) for the opening words substitute—

“(1) Where it is evident that food or feed originating in or entering Great Britain is likely to constitute a serious risk to human health, animal health or the environment, the appropriate authority may make regulations, containing one or more of the following measures, depending on the gravity of the situation—”;

(b) in subparagraph (a), in the opening words, for “the United Kingdom” substitute “Great Britain”;

(c) in subparagraph (b)—

(i) in the opening words, for “imported from outside the United Kingdom” substitute “entering Great Britain”;

(ii) in paragraph (i), for “imports” substitute “the entry”.

(3) After Article 53(1) insert—

(7) S.I. 2013/2210 as amended by S.I. 2014/1855, 2019/860 and 2020/1504.

(8) EUR 178/2002 as amended by S.I. 2019/641 and 2020/1504.

“(2A) For the purpose of this Article, “entering Great Britain” means the action of bringing food or feed into Great Britain from any country outside of Great Britain.”.

Amendment of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed

5.—(1) Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed⁽⁹⁾ is amended as follows.

(2) For Article 7(3) substitute—

“(3) Any authorisation in respect of an application must be prescribed by the appropriate authority and must include—

- (a) the particulars referred to in Article 6(5);
- (b) the name of the authorisation holder;
- (c) where appropriate, the unique identifier attributed to the GMO as referred to in Regulation (EC) No. 1830/2003.”.

(3) For Article 19(3) substitute—

“(3) Any authorisation in respect of an application must be prescribed by the appropriate authority and must include—

- (a) the particulars referred to in Article 18(5);
- (b) the name of the authorisation holder;
- (c) where appropriate, the unique identifier attributed to the GMO as referred to in Regulation (EC) No. 1830/2003.”.

Amendment of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition

6.—(1) Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition⁽¹⁰⁾ is amended as follows.

(2) In Article 9(1), for “The authorisation is to be in a form prescribed by the appropriate authority.” substitute “The authorisation must be prescribed by the appropriate authority and must include the elements mentioned in Article 8(4)(b), (c), (d) and (e) and an identification number.”.

(3) In Article 9(3), for “determination” substitute “authorisation”.

(4) Omit Article 9(4).

Address
Date

Name
Parliamentary Under Secretary of State
Department of Health and Social Care

(9) EUR 1829/2003 as amended by S.I. 2019/705 and 2020/1504.

(10) EUR 1831/2003 as amended by S.I. 2019/654 and 2020/1504.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of these Regulations is made in exercise of the powers conferred by the Food Safety Act 1990 (c. 16). Part 2 amends the Quick-frozen Foodstuffs (England) Regulations 2007 (S.I. 2007/191) and the Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013 (S.I. 2013/2210). The amendments to these instruments insert transitional provisions in relation to products placed on the market within the period of 21 months beginning with the day on which IP completion day falls.

Part 3 of these Regulations is made in exercise of the powers conferred by section 8(1)(b) and 8C of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Regulation 4 makes amendments to Article 53 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, to enable emergency measures to be taken in respect of food or feed originating in or entering Great Britain.

Regulations 5 and 6 make amendments to Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed and Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition to clarify how authorisations are made.

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