# Agriculture Act 2020

**2020 CHAPTER 21**

## PART 5

AGRICULTURAL PRODUCTS

### 37 Marketing standards

(1) The Secretary of State may by regulations, in relation to agricultural products that—

(a) are listed in Schedule 4, and

(b) are marketed in England,

make provision about the standards with which those products must conform ("marketing standards").

(2) The regulations may cover matters such as—

(a) technical definitions, designation and sales descriptions;

(b) classification criteria such as grading into classes, weight, sizing, age and category;

(c) the species, plant variety or animal breed or the commercial type;

(d) the presentation, labelling, packaging, rules to be applied in relation to packaging centres, marking, years of harvesting and use of specific terms;

(e) criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content;

(f) specific substances used in production, or components or constituents, including their quantitative content, purity and identification;

(g) the type of farming and production method, including oenological practices;

(h) coupage of must and wine (including definitions of those terms), blending and restrictions thereof;

(i) the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport;

(j) the place of farming or origin, excluding live poultry, poultrymeat and spreadable fats;

(k) restrictions as regards the use of certain substances and practices;

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(l) specific use of products;

(m) the conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards, and the disposal of by-products;

(n) the use of terms communicating value-added characteristics or attributes.

(3) Regulations under subsection (1) may include provision about enforcement, which may (among other things) include provision—

(a) about the provision of information;

(b) conferring powers of entry;

(c) conferring powers of inspection, search and seizure;

(d) about the keeping of records;

(e) imposing monetary penalties;

(f) creating summary offences punishable with a fine (or a fine not exceeding an amount specified in the regulations, which must not exceed level 4 on the standard scale);

(g) about appeals;

(h) conferring functions (including functions involving the exercise of a discretion) on a person.

(4) Regulations under subsection (1) may not authorise entry to a private dwelling without a warrant issued by a justice of the peace.

(5) The Secretary of State may by regulations amend this section and Schedule 4 for or in connection with the purpose of—

(a) adding or removing an agricultural product from the list in Schedule 4;

(b) altering the description of an agricultural product in the list.

(6) Regulations under this section are subject to affirmative resolution procedure.

**Commencement Information**

**I1** S. 37 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

## 38 Organic products

(1) Regulations may make provision for and in relation to the certification of—

(a) organic products;

(b) activities relating to organic products;

(c) persons or groups of persons carrying out activities relating to organic products.

(2) Regulations under subsection (1) may (without limitation) make provision—

(a) as to the persons ("certification authorities") who are to carry out functions relating to certification in the United Kingdom or overseas;

(b) requiring persons carrying out activities in relation to organic products to notify certification authorities of those activities;

(c) relating to procedures for applications for certificates;

(d) as to the circumstances in which certificates may or may not be issued;

(e) for the suspension or withdrawal of certificates;

(f) prohibiting or restricting the sale or marketing of organic products—
  (i) without certification provided for by regulations under this section, or
  (ii) where activities are or have been carried out in relation to the products without certification provided for by regulations under this section.

(3) Regulations under subsection (1) may, in relation to certification under the regulations, make provision (without limitation) about the objectives, principles and standards of organic production, including those whose purpose is—
  (a) mitigating, or adapting to, climate change;
  (b) protecting or improving natural resources;
  (c) protecting or improving biodiversity (including protecting endangered species);
  (d) protecting or improving human health;
  (e) protecting or improving the health or welfare of livestock or other animals;
  (f) protecting or improving the health of plants;
  (g) protecting or improving the quality of soil;
  (h) protecting or improving the landscape;
  (i) promoting organic production or innovation in, or research into, techniques of organic production;
  (j) securing the maintenance of the principles of organic production;
  (k) maintaining consumer confidence in organic products.

(4) Regulations under subsection (1) may (without limitation) make provision about the labelling, marketing and sale of organic products which are certified under the regulations, including in particular prohibiting, requiring or permitting labelling of a description specified in the regulations.

(5) Regulations may make provision in relation to the import of organic products into the United Kingdom, including provision—
  (a) as to the procedures to be followed in respect of the import of organic products;
  (b) restricting or prohibiting the import of organic products.

(6) The provision that may be made under subsection (5)(b) includes provision framed by reference to cases where—
  (a) imported organic products are certified by a person recognised in accordance with the regulations as competent to—
    (i) certify organic products as complying with provision made by regulations under subsection (1), or
    (ii) control or enforce standards relating to organic products equivalent to those applicable in the United Kingdom;
  (b) imported organic products are produced in an overseas country which is recognised in accordance with the regulations as controlling or enforcing standards relating to organic products equivalent to those applicable in the United Kingdom;
  (c) imported organic products comply with conditions specified in an international trade agreement.

(7) Regulations may make provision relating to the export of organic products from the United Kingdom, including provision—
  (a) requiring exports to be notified to a person specified in the regulations;

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(b) as to other procedures relating to exports.

(8) Regulations under this section may include provision—

(a) prohibiting the sale or marketing of organic products, or other activities relating to organic products, in cases of non-compliance with the regulations;

(b) for the charging of fees in respect of functions exercisable under the regulations (such fees not to exceed the reasonable cost of the exercise of the functions);

(c) relating to enforcement of the regulations.

(9) The provision that may be made under subsection (8)(c) includes provision—

(a) about the provision, use and retention of information (whether within or outside the United Kingdom),

(b) conferring powers of entry,

(c) conferring powers of inspection, search and seizure,

(d) for the keeping of records,

(e) imposing monetary penalties,

(f) creating summary offences punishable with a fine (or a fine not exceeding an amount specified in the regulations), and

(g) conferring functions (including functions involving the exercise of a discretion) on a person.

(10) Provision under subsection (9)(b) may not authorise entry to a private dwelling without a warrant issued by a justice of the peace (or, in Northern Ireland, lay magistrate).

(11) In this section—

"marketing" includes advertising;

"organic production" means production of organic products (as to which, see subsections (12) and (13)).

(12) In this section "organic product" means a qualifying product which is or is to be—

(a) marketed or sold as "organic";

(b) included as an ingredient or component of another product and labelled as "organic" on the marketing or sale of that other product.

(13) In subsection (12) "qualifying product" means—

(a) an agricultural, horticultural or aquacultural product or a product of animal husbandry, or

(b) a product not falling within paragraph (a) which is intended for use as, or in, food and drink for human consumption or animal feed.

**Commencement Information**

**I2** S. 38 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

## 39 Organic products: supplementary

(1) Regulations under section 38 may be made by—

(a) the Secretary of State;

(b) the Scottish Ministers, if and to the extent that provision made by the regulations would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament;

(c) the Welsh Ministers, if and to the extent that provision made by the regulations would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd (ignoring any requirement for the consent of any person);

(d) DAERA, if and to the extent that provision made by the regulations would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly made without the Secretary of State's consent.

(2) The Secretary of State may only make regulations under section 38 containing provision which could be made under that section by an authority referred to in subsection (1)(b) to (d) with the consent of that authority.

(3) Regulations under section 38 are subject to affirmative resolution procedure where—

(a) the regulations are made under subsection (1) of that section and contain provision referred to in subsection (3) of that section, or

(b) the regulations are made under subsection (1), (5) or (7) of that section and they are the first regulations to be made under that subsection by the authority making them.

(4) Regulations under section 38 to which subsection (3) does not apply are subject to negative resolution procedure (unless section 50(5) applies).

**Commencement Information**

**I3** S. 39 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

## 40 Carcass classification

(1) The Secretary of State may by regulations make provision about the classification, identification and presentation of bovine, pig and sheep carcasses by slaughterhouses in England.

(2) Regulations under subsection (1) may include provision about enforcement, which may (among other things) include provision—

(a) about the provision of information;

(b) conferring powers of entry;

(c) conferring powers of inspection, search and seizure;

(d) about the keeping of records;

(e) imposing monetary penalties;

(f) creating summary offences punishable with a fine (or a fine not exceeding an amount specified in the regulations, which must not exceed level 4 on the standard scale);

(g) about appeals;

(h) conferring functions (including functions involving the exercise of a discretion) on a person.

(3) Regulations under subsection (1) may not authorise entry to a private dwelling without a warrant issued by a justice of the peace.

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(4) Regulations under this section are subject to affirmative resolution procedure.

**Commencement Information**

**I4** S. 40 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

## 41 Power to reproduce modifications under section 37 for wine sector

(1) The Secretary of State may by regulations modify Annex 7 of the CMO Regulation as it applies for the purposes of Section 2 of Chapter 1 of Title 2 of that Regulation (designations of origin, geographical indications and traditional terms in the wine sector), so as to reproduce any modifications to that Annex made by regulations under section 37(1).

(2) Regulations under this section are subject to negative resolution procedure (unless section 50(5) applies).

**Commencement Information**

**I5** S. 41 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

## 42 Reports relating to free trade agreements

(1) A free trade agreement that includes measures applicable to trade in agricultural products may not be laid before Parliament under Part 2 of the Constitutional Reform and Governance Act 2010 unless the Secretary of State has first laid a report complying with subsection (2) before Parliament.

(2) The report must explain whether, or to what extent, the measures referred to in subsection (1) are consistent with the maintenance of UK levels of statutory protection in relation to—
   (a) human, animal or plant life or health,
   (b) animal welfare, and
   (c) the environment.

(3) In subsection (2) "UK levels of statutory protection" means levels of protection which, at the time the report is made, are provided for by or under any legislation which has effect in, or in any part of, the United Kingdom.

(4) In preparing the report, the Secretary of State may seek advice from any person the Secretary of State considers to be independent and to have relevant expertise.

(5) When the Secretary of State lays the report before Parliament the Secretary of State must also provide a copy of it to—
   (a) the Scottish Ministers,
   (b) the Welsh Ministers,
   (c) DAERA, and
   (d) any Committee of the House of Commons or the House of Lords or any Joint Committee of both Houses that appears to the Secretary of State to have an interest in the subject matter of the report.

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(6) This section does not apply in relation to a free trade agreement if—

(a) each party to the agreement (other than the United Kingdom) is a member State or the European Union, or

(b) the following conditions are met—

(i) the negotiations for the agreement were concluded before the second anniversary of IP completion day,

(ii) each party to the agreement (other than the United Kingdom) and the European Union were, immediately before exit day, parties to another free trade agreement which includes measures applicable to trade in agricultural products, and

(iii) the other free trade agreement was, immediately before exit day, in force for, or being provisionally applied by, each party to that agreement.

(7) In this section—

"agricultural products" means products of a kind which, at the time this section comes into force, is listed in—

(a) Annex 1 to the Treaty on the Functioning of the European Union;

(b) Annex 1 to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2013 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009;

(c) the first two columns of Annex 2 to that Regulation;

"free trade agreement" means an agreement that is or was notifiable under paragraph 7(a) of Article XXIV of the General Agreement on Tariffs and Trade, part of Annex 1A of the WTO Agreement (as modified from time to time);

"legislation" means primary legislation, subordinate legislation or **[**[F1]assimilated direct**]** legislation;

"the WTO Agreement" means the Agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994.

**Textual Amendments**

**F1** Words in s. 42(7) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 93(2)(i)**

**Commencement Information**

**I6** S. 42 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 42(4A)(4B) inserted by 2021 c. 10 s. 9(2)
- s. 42(6A)-(6C) inserted by 2021 c. 10 s. 9(4)