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AGRICULTURE, ENGLAND

AGRICULTURE, ENGLAND AND WALES

FOOD, ENGLAND

FOOD, ENGLAND AND WALES

**The Common Organisation of the Markets in Agricultural
Products (Amendment) Regulations 2022**

<i>Sift requirements satisfied</i>	<i>1st November 2022</i>
<i>Made - - - -</i>	<i>7th November 2022</i>
<i>Laid before Parliament</i>	<i>8th November 2022</i>
<i>Coming into force - -</i>	<i>1st December 2022</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 50(3) and 53(1) of the Agriculture Act 2020^(a) and sections 8(1) and 8C(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(b).

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

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^(c) there has been open and transparent public consultation during the preparation of these Regulations.

(a) 2020 c. 21.

(b) 2018 c. 16; section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1); section 8C was inserted by section 21 of that Act and amended by section 55(3) of the United Kingdom Internal Market Act 2020 (c. 27); paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to that Act.

(c) EUR 2002/178, to which there are amendments not relevant to these Regulations.

PART 1

Introductory

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Common Organisation of the Markets in Agricultural Products (Amendment) Regulations 2022.

(2) These Regulations come into force on 1st December 2022.

(3) These Regulations extend to England and Wales.

(4) Regulations 1 to 4 and 12 apply in relation to England and Wales. Regulations 5 to 11, 13 and 14 apply only in relation to England.

PART 2

Amendment of retained direct EU legislation

CHAPTER 1

Amendment of retained direct EU legislation applying in relation to England and Wales

Council Regulation (EC) No 1234/2007

2. In Annex 14 of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)(a)—

(a) in part B, in point 1—

(i) in paragraph 2(a), for “the Community” substitute “Great Britain”;

(ii) in paragraph 3—

(aa) for “Member States may derogate from” substitute “Nothing in this Regulation prevents the relevant authority from using any power that authority has to provide that”;

(bb) after “of this Regulation” insert “do not apply”;

(cc) at the end, insert—

“The ‘relevant authority’ is—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

(c) in relation to Scotland, the Scottish Ministers.”;

(b) in Part C, in point 1—

(i) in the heading, after “Scope” insert “and definition of ‘third country’”;

(ii) in paragraph 1, for “the Community” substitute “Great Britain”;

(iii) after paragraph 2, insert—

“3. For the purposes of this Part, ‘third country’ means any country or territory other than—

(a) the United Kingdom;

(b) the Bailiwick of Guernsey;

(a) EUR 2007/1234, to which there are amendments not relevant to these Regulations; points 1(2) and (3) of Part B, and Part C, of Annex 14 are saved by Article 230(1)(c) of EUR 2013/1308 (which was itself amended by S.I. 2019/1422).

- (c) the Bailiwick of Jersey;
- (d) the Isle of Man.”.

Commission Regulation (EC) No 543/2008

3.—(1) Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat(a) is amended as follows.

(2) In Article 9(12)—

- (a) for the words from the beginning to “indications, the” substitute “The”;
- (b) at the end, insert “authorised by section 8(5A) of the Weights and Measures Act 1985(b)”.

(3) In Article 13, for “European Norm No EN/45011 of 26 June 1989” substitute “ISO/IEC 17065 (Requirements for bodies certifying products, processes and services)(c)”.

(4) In Article 20(4), for “Articles 17 and” substitute “Article”.

Regulation (EU) No 1308/2013 of the European Parliament and of the Council

4. In Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products(d), in Annex 7, in Part 1, in point 6, in paragraph 5, for “European Standard EN 45011 or ISO/IEC Guide 65” substitute “ISO/IEC 17065 (Requirements for bodies certifying products, processes and services)”.

CHAPTER 2

Amendment of retained direct EU legislation applying to England only

Commission Regulation (EC) No 543/2008

5.—(1) Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat is amended as follows.

(2) In Article 1, for “Article 75(1)(g) of Regulation (EC) No 1308/2013” substitute “the fourth paragraph (Poultry and poultrymeat) of Schedule 4 to the Agriculture Act 2020, excluding live poultry,”.

(3) In Article 13, for “Article 75(3)(g) of Regulation (EU) No 1308/2013” substitute “Article 11(1)”.

Commission Regulation (EC) No 617/2008

6. In Article 3(5) of Commission Regulation (EC) No 617/2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks(e), omit “75(3),”.

(a) EUR 2008/543, amended by S.I. 2019/1422; there are other amending instruments, but none is relevant.
(b) 1985 c. 72; sub-section (5A) was inserted into section 8 by S.I. 1994/2867, amended by S.I. 2001/55 and S.I. 2009/3046.
(c) ISBN 978 0 580 78472 9. This international standard was published by the British Standards Institution on 31st October 2012.
(d) EUR 2013/1308; relevant amending instruments are S.I. 2019/821 (which was itself amended by S.I. 2020/1453), 831.
(e) EUR 2008/617, amended by S.I. 2019/1422.

Commission Implementing Regulation (EU) No 543/2011

7.—(1) Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors^(a) is amended as follows.

- (2) In Article 3(2), omit “referred to in Article 75(1)(b) of Regulation (EU) No 1308/2013”.
- (3) In Article 8, for “Articles 75 and” substitute “Article”.
- (4) In Article 10(1), omit “pursuant to Article 75 of Regulation (EU) No 1308/2013”.
- (5) In Article 11(1), for “Articles 75 and” substitute “Article”.

Regulation (EU) No 1308/2013 of the European Parliament and of the Council

8.—(1) Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products is amended as follows.

- (2) In Article 76(1), omit “referred to in Article 75”.
- (3) In Article 80(1)—
 - (a) omit “point (g) of Article 75(3) and in”;
 - (b) after “and (3)” insert “and in Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files^(b)”.
- (4) In Article 83(1), for “Notwithstanding Article 75(2), nothing” substitute “Nothing”.
- (5) In Article 85—
 - (a) in paragraph 1, omit the words from “and the” to the end;
 - (b) in paragraph 2, omit “pursuant to Article 86”.
- (6) In Article 90(2), omit “pursuant to Article 80(3)”.
- (7) In Article 228(9), omit point (a).
- (8) In Annex 7—
 - (a) in Part 2—
 - (i) in point (1), in the second paragraph—
 - (aa) in point (c), omit the first indent;
 - (bb) in point (d), omit “, subject to derogations provided for under Article 75(2),”;
 - (ii) in point (3)—
 - (aa) in point (b), omit the words from “, except for” to the end;
 - (bb) in point (c), in the fourth indent omit the words from “or a mixture” to the end;
 - (cc) in point (d), omit the words from “, except for” to the end;
 - (dd) omit point (f);
 - (iii) in point (6)(a), for the words from “on any list” to the end substitute “set out in the list in the Appendix to Annex 2 to Regulation (EU) 2019/934”;
 - (iv) in point (12), omit the second sentence;
 - (v) in point (13), in the first paragraph omit the words from “used in” to “Article 91”;

(a) EUR 2011/543, amended by S.I. 2019/822 (which was itself amended by S.I. 2020/1453); there are other amending instruments but none is relevant.

(b) EUR 2019/934, amended by S.I. 2020/1637, 2021/632.

- (vi) in point (14), in the first paragraph, in point (a)(i), omit the words from “used according” to “Article 91”;
- (b) in Part 6, in point 1(1), omit “Article 75 concerning”;
- (c) in Part 8—
 - (i) in point (1), in the second paragraph—
 - (aa) in point (a), for “accordance with Article 75(2)” substitute “Commission Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis^(a) and Commission Implementing Regulation (EU) No 29/2012 on marketing standards for olive oil^(b),”;
 - (bb) in points (b) and (c), for “accordance with Article 75(2)” substitute “Regulation (EEC) No 2568/91 and Regulation (EU) No 29/2012,”;
 - (ii) in points (2) to (6), for “accordance with Article 75(2)” substitute “Regulation (EEC) No 2568/91 and Regulation (EU) No 29/2012,”.
- (9) In Annex 8—
 - (a) in Part 1—
 - (i) in Section C, in paragraph 7, omit “, subject to any exceptions made under Article 75(2)”;
 - (ii) in Section D, in paragraph 1, for “under Article 75(2)” substitute “in Regulation (EU) 2019/934”;
 - (b) in Part 2, in Section D, in paragraph 5, for “prescribed under Article 75(2)” substitute “set out in Article 14 of Regulation (EU) 2019/934”.

Regulation (EU) No 251/2014 of the European Parliament and of the Council

9. In Article 4(4) of Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products^(c), for the words from “accordance with” to “Regulation (EU) No 1308/2013” substitute “paragraphs A to D of Part 1 of Annex 8 to Regulation (EU) No 1308/2013 and Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files”.

Commission Delegated Regulation (EU) 2019/934

10.—(1) Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files is amended as follows.

- (2) In Article 4(1)(a), omit “and Article 80(3)(b) to (e)”.
- (3) In Article 7(1), omit “point (h) of Article 75(3) and”.
- (4) In Article 9(1), for “Article 75(3)(f) of Regulation (EU) No 1308/2013” substitute “this Regulation”.

(a) EUR 1991/2568, amended by S.I. 2019/1422 (which was itself amended by S.I. 2020/1453).

(b) EUR 2012/29, amended by S.I. 2019/1422 (which was itself amended by S.I. 2020/1453), 2022/938.

(c) EUR 2014/251, to which there are amendments not relevant to these Regulations.

Commission Implementing Regulation (EU) 2019/935

11. In Article 2 of Commission Implementing Regulation (EU) 2019/935 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards analysis methods for determining the physical, chemical and organoleptic characteristics of grapevine products and notifications of Member States decisions concerning increases in natural alcoholic strength(a) omit “referred to in point (d) of Article 75(5) of Regulation (EU) No 1308/2013”.

PART 3

Amendment of EU derived domestic legislation

CHAPTER 1

Amendment of EU derived domestic legislation applying to England and Wales

The Hops Certification Regulations 1979

12. In regulation 3(1) of the Hops Certification Regulations 1979(b) omit sub-paragraph (f).

CHAPTER 2

Amendment of EU derived domestic legislation applying to England only

The Marketing of Fresh Horticultural Produce Regulations 2009

13. In regulation 2(2) of the Marketing of Fresh Horticultural Produce Regulations 2009(c)—

- (a) in the definition of “marketing rules”, for “, 75 and 76” substitute “and 76 of Regulation (EU) 2013”;
- (b) in the definition of “specific marketing standards” omit “provided for under under Article 75(1)(b) of Regulation (EU) 2013”.

The Eggs and Chicks (England) Regulations 2009

14. In the Eggs and Chicks (England) Regulations 2009(d), in Schedule 2, in Part 1, in the table, omit the rows which begin “Articles 75(2) and (3)”.

Mark Spencer
Minister of State

7th November 2022

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2, Chapter 1 and Part 3, Chapter 1 of these Regulations are made in exercise of the powers conferred by sections 8(1) and 8C(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained direct EU legislation to operate effectively and other deficiencies (in particular paragraphs (a), (ea) and (g) of section 8(2)) arising from the withdrawal

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- (a) EUR 2019/935, amended by S.I. 2020/1637; there is another amending instrument but it is not relevant.
 - (b) S.I. 1979/1095, amended by S.I. 2020/1453; there are other amending instruments but none is relevant.
 - (c) S.I. 2009/1361; relevant amending instruments are S.I. 2011/1043, 2587, 2013/3235, 2018/575, 2019/824.
 - (d) S.I. 2009/2163; relevant amending instruments are S.I. 2011/1043, 2013/3235, 2018/575, 2019/1442.

of the United Kingdom from the European Union, and to deal with matters arising out of, or related to, the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Part 2, Chapter 2 and Part 3, Chapter 2 of these Regulations make amendments consequential to those made by Part 3 of Schedule 7 to the Agriculture Act 2020 (c. 21). The consequential amendments relate to marketing standards and are made to both retained direct EU legislation and EU derived domestic legislation. These amendments either omit cross references to articles of Regulation (EU) No 1308/2013 (EUR 2013/1308) (the CMO Regulation) which have been disapplied by Part 3 of Schedule 7 to the Agriculture Act 2020, in some cases together with associated wording, or operate to substitute references to articles of the CMO Regulation with an appropriate reference to retained EU legislation or to the Agriculture Act 2020.

The retained direct minor EU legislation made by the European Commission under Section 1 or Section 3 of Chapter 1 of Title 2 of the CMO Regulation continues to apply to products marketed in England, notwithstanding the amendments made by Part 3 of Schedule 7 to the Agriculture Act 2020.

Copies of the British Standard ISO/IEC 17065 (Requirements for bodies certifying products, processes and services), referred to in regulations 3 and 4, may be obtained from www.bsigroup.com and hard copies can be obtained from BSI Customer Services, 389 Chiswick High Road, London W4 4AL (telephone number 0345 080 9000).

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

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