

Draft Regulations laid before Senedd Cymru under paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2020 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

AGRICULTURE, WALES

FOOD, WALES

**The Food and Feed Hygiene and
Safety (Miscellaneous Amendments
and Saving Provision) (Wales) (EU
Exit) Regulations 2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraphs 1(1) and 11M(1) of Schedule 2, paragraph 7 of Schedule 4, and paragraph 21(b) of Schedule 7, to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of food and feed safety and hygiene.

Part 2 contains amendments to provisions of Welsh EU Exit subordinate legislation. Amendments include correction of identified errors, and provision required to implement the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement. Part 2 also omits a number of provisions that were included to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The omitted provisions either no longer apply or the

amendments made by those provisions are replaced by other amendments made by these Regulations.

Part 3 contains amendments to subordinate legislation that apply in relation to Wales, in order to address failures of retained EU law to operate effectively and to implement the Protocol on Ireland/Northern Ireland. A number of the amendments consolidate and update (with amendment) provisions included in earlier EU Exit subordinate legislation that are omitted in Part 2 of these Regulations.

Part 4 makes a saving provision.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

Draft Regulations laid before Senedd Cymru under paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2020 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

AGRICULTURE, WALES

FOOD, WALES

**The Food and Feed Hygiene and
Safety (Miscellaneous Amendments
and Saving Provision) (Wales) (EU
Exit) Regulations 2020**

Made

*Coming into force in accordance with
regulation 1(2) and (3)*

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraphs 1(1) and 11M(1) of Schedule 2, paragraph 7 of Schedule 4, and paragraph 21(b) of Schedule 7, to the European Union (Withdrawal) Act 2018⁽¹⁾.

In accordance with paragraph 4(a) of Schedule 2 to that Act, the Secretary of State has been consulted during the preparation of these Regulations.

(1) 2018 c.16. See section 20(1) of that Act for the definition of “devolved authority”. There are amendments to paragraph 1 of Schedule 2 not relevant to these Regulations. Paragraph 11M of Schedule 2 was inserted by section 22 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) and paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to that Act.

In accordance with paragraph 1(8) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by a resolution of Senedd Cymru⁽¹⁾.

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

PART 1

Introduction

Title, application and commencement

1.—(1) The title of these Regulations is the Food and Feed Hygiene and Safety (Miscellaneous Amendments and Saving Provision) (Wales) (EU Exit) Regulations 2020 and they apply in relation to Wales.

(2) This Part and Part 2 come into force immediately before implementation period completion day.

(3) Parts 3 and 4 come into force on implementation period completion day.

PART 2

Amendments to EU Exit subordinate legislation

The Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

2.—(1) The Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019⁽³⁾ are amended as follows.

(2) Omit regulation 2.

(3) In regulation 3 (amendment to the Materials and Articles in Contact with Food (Wales) Regulations 2012)—

(a) after paragraph (2) insert—

“(2A) In regulation 4(3) omit “Community”.

(2B) In regulation 6(1)—

(1) The reference in the European Union (Withdrawal) Act 2018 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

(2) OJ No. L 31, 1.2.2002, p. 1.

(3) S.I. 2019/425 (W. 99).

- (a) omit sub-paragraph (a);
 - (b) in sub-paragraph (b), for “16(1)” substitute “16.”
- (b) in paragraph (5), in the new regulation 10A to be inserted—
- (i) in paragraph (1), for “in accordance with Article 16 of Regulation 1935/2004” substitute “complying with paragraph (2)”;
 - (ii) in paragraph (2), for “the United Kingdom” substitute “Great Britain”;
 - (iii) in paragraph (3), for “the United Kingdom” substitute “Great Britain”;
- (c) after paragraph (6) insert—
- “(6A) In regulation 27(1)(a)(i), for “10(4), 10(6)” substitute “10A(1), 10A(3).”
- “(6B) In Schedule 2, in paragraph 1, in the substituted section 10(1A), for “10(4), 10(6)” substitute “10A(1), 10A(3).”
- (4) Omit regulation 4.
- (5) In the Schedule, in the new Schedule 5 (declaration of compliance) to be inserted, in paragraph 1(a), for “the United Kingdom” substitute “Great Britain”.

The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

3.—(1) The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019⁽¹⁾ are amended as follows.

(2) In regulation 4(3) (amendment to the Quick-frozen Foodstuffs (Wales) Regulations 2007), for sub-paragraph (c), substitute—

- “(c) in paragraph (4)—
- (i) in the words before sub-paragraph (a), for “any other description listed in Article 8.1(a) of Directive 89/109” substitute “its equivalent in any other language”;
 - (ii) in sub-paragraph (b), for “European Union” substitute “United Kingdom”.

(3) Omit regulations 5 and 6.

(4) In regulation 7 (amendment to the Plastic Kitchenware (Conditions on Imports from China) (Wales) Regulations 2011)—

(1) S.I. 2019/434 (W. 102), amended prospectively by S.I. 2020/44 (W. 5).

- (a) for paragraph (2) substitute—
“(2) In regulation 3(1), for “the European Union” substitute “Great Britain””.
- (b) for paragraph (3) substitute—
“(3) In regulation 8(3)(a)(i), for “the European Union” substitute “Great Britain””.

The Food (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019

4.—(1) The Food (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019⁽¹⁾ are amended as follows.

(2) Omit regulation 2.

(3) Omit regulations 4, 5, 6 and 7.

(4) In regulation 8 (amendment to the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015)—

- (a) in paragraph (3), for sub-paragraph (b) substitute—

“(b) for sub-paragraph (d), substitute—

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

- (i) movement into Northern Ireland; or
- (ii) export to a third country.”;

- (b) for paragraph (4)(a)(iii), substitute—

“(iii) for sub-paragraph (d) substitute—

“(d) in the case of water extracted from the ground in a third country—

- (i) the Agency grants recognition in accordance with Part 2 of Schedule 1;
- (ii) it has equivalent recognition in England granted by the Secretary of State 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 (England) Regulations 2007⁽²⁾;
- (iii) it has equivalent recognition in Scotland

⁽¹⁾ S.I. 2019/1046 (W. 185).

⁽²⁾ S.I. 2007/2785, amended by S.I. 2009/1598, 2010/433, 2011/451, 2014/1855, 2018/352, 2019/526 and 2019/1488; amended prospectively by S.I. 2019/150, 2019/775 and 2019/778.

granted by Food Standards Scotland 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⁽¹⁾;

(iv) 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⁽²⁾.”;

- (c) in paragraph 5, in the new regulation 4A to be inserted—
- (i) in paragraph (6), for “exit day” substitute “IP completion day”;
 - (ii) in paragraph (12), for “exit day”, in each place it occurs, substitute “IP completion day”;
- (d) for paragraph (7), substitute—
- “(7) In regulation 27A—
- (a) in paragraph (b)—
 - (i) omit “or from another EEA State”;
 - (ii) for “Articles 1 to 3 of Regulation 115/2010” substitute “the relevant bottled water legislation that applies in that part of the United Kingdom”;
 - (b) in paragraph (c)—
 - (i) for “country other than an EEA State” substitute “third country”;
 - (ii) for the words from “has been authorised” to “Articles 1 to 3”, substitute “complies with Articles 1 and 2”;
- (e) in paragraph (8)(b), after paragraph (i) insert—
- “(ia) after “the Agency”, for the “or” substitute “to be equivalent to the

(1) S.S.I. 2007/483, amended by S.S.I. 2009/273, 2010/89, 2011/1043, 2014/312, 2015/100, 2015/363 and 2017/287.

(2) S.R. 2015 No. 365, amended by S.R. 2017 No. 201; prospectively amended by S.R. 2019 No.353.

requirements of these Regulations,
or by the””.

PART 3

Amendment of Welsh subordinate legislation

The Genetically Modified Food (Wales) Regulations 2004

5.—(1) The Genetically Modified Food (Wales) Regulations 2004(1) are amended as follows.

(2) In the Schedule, in Part 2, in the table—

- (a) omit the entry for Article 8.6;
- (b) in the entry for Article 9.3, in the second column, for “Commission”, substitute “Food Safety Authority”.

The General Food Regulations 2004

6.—(1) The General Food Regulations 2004(2) are amended as follows.

(2) In regulation 4 (requirements under Regulation (EC) No.178/2002: offences), for paragraph (a) substitute—

“(a) Article 12 (food and feed exported from Great Britain) in so far as it relates to food;”.

The Fishery Products (Official Controls Charges) (Wales) Regulations 2007

7.—(1) The Fishery Products (Official Controls Charges) (Wales) Regulations 2007(3) are amended as follows.

(2) In regulation 2(1), for the definition of “third country” substitute—

““third country” (“*trydedd wlad*”), except in the expression “third country import” means

-
- (1) S.I. 2004/3220 (W. 276), amended by S.I. 2018/806; there are other amending instruments but none is relevant to these Regulations. It was amended prospectively by S.I. 2019/425 (W. 99) but that amendment is omitted by regulation 2(2) of these Regulations.
 - (2) S.I. 2004/3279, amended by S.I. 2005/3254 (W. 247) and 2011/1043; there are other amending instruments but none is relevant to these Regulations. It was amended prospectively by S.I. 2019/1046 (W. 185) but that amendment is omitted by regulation 4(2) of these Regulations.
 - (3) S.I. 2007/3462 (W. 307), amended by S.I. 2011/1043, 2018/806 (W. 162) and 2019/1481 (W. 265); there is another amending instrument but it is not relevant to these Regulations. It was amended prospectively by S.I. 2019/1046 (W. 185) but that amendment is omitted by regulation 5(4) of these Regulations.

any country or territory other than the British Islands;”.

(3) For regulation 4 substitute—

“Sterling equivalents of Euro

4. Any reference in these Regulations to a specified number of Euros (“EUR”) is to be read as that sum converted into pounds sterling (“GBP”) using the exchange rate of GBP1 = EUR1.1413.”

(4) For the heading to the Schedule, substitute—

**“DEFINITIONS OF
LEGISLATION”.**

The Food Irradiation (Wales) Regulations 2009

8.—(1) The Food Irradiation (Wales) Regulations 2009⁽¹⁾ are amended as follows.

(2) In regulation 3(1)—

- (a) in the definition of “import”, for “another Member State or from a country outside the European Union” substitute “outside the United Kingdom”;
- (b) in the definition of “official reference number”, for “the reference number allocated by the Member State in connection with its approval as an irradiation facility (being the number shown for it in the list in Schedule 3)” substitute “the number shown for it in the list in Schedule 3”.

(3) In regulation 5(1)—

- (a) for sub-paragraph (b) substitute—

“(b) it has been irradiated in one of the facilities listed in the Table in Schedule 3 or Schedule 4;”;
- (b) in sub-paragraph (d), for “another” substitute “a”.

(4) For the heading to Schedule 3, substitute—

(1) S.I. 2009/1795 (W. 162), amended by S.I. 2011/1043 2018/806 (W. 162); there is another amending instrument but it is not relevant to these Regulations.

“ LIST OF FACILITIES IN EU
MEMBER STATES AND IN THE
UNITED KINGDOM”.

**The Meat (Official Controls Charges) (Wales)
Regulations 2009**

9. In the Meat (Official Controls Charges) (Wales) Regulations 2009(1), for the heading to Schedule 1, substitute—

“DEFINITIONS OF
LEGISLATION”.

**The Official Feed and Food Controls (Wales)
Regulations 2009**

10.—(1) The Official Feed and Food Controls (Wales) Regulations 2009(2) are amended as follows.

(2) In regulation 2(1)—

(a) after the definition of “relevant feed law”, omit the “and”;

(b) at the appropriate place, insert—

““third country” (“*trydedd wlad*”) means any country or territory other than the British Islands.”

(3) In regulation 4—

(a) in paragraph (1), for “member States” substitute “the Welsh Ministers”;

(b) in paragraph (4), for “EU legislation” substitute “any other applicable legislation”.

(4) In regulation 5(1), for “member States” substitute “the Welsh Ministers”.

(5) Omit regulations 14, 15 and 16.

(6) In regulation 17—

(a) omit paragraph (3);

(b) in paragraph (5), omit sub-paragraphs (a) and (b).

(7) In regulation 19(1)—

(a) in sub-paragraph (a), omit “14, 15 or”;

(b) in sub-paragraph (b)—

(1) S.I. 2009/1557 (W. 152), amended by S.I. 2011/1043, 2019/1480 (W. 264); there are other amending instruments but none is relevant to these Regulations. It was amended prospectively by S.I. 2019/434 (W. 102) but that amendment is omitted by regulation 3(3) of these Regulations.

(2) S.I. 2009/3376 (W. 298), amended by S.I. 2011/1043, 2019/1482 (W. 266); there are other amending instruments but none is relevant to these Regulations. It was amended prospectively by S.I. 2019/434 (W. 102) and 2019/1046 (W. 185) but those amendments are omitted by, respectively, regulations 3(3) and 5(4) of these Regulations.

- (i) omit “14, 15 or”;
- (ii) for “those regulations” substitute “that regulation”.

(8) In regulation 20(2), for “, regulation 11 or regulation 16” substitute “or regulation 11”.

(9) In regulation 22, omit the definition of “the relevant territories” and the “and” after it.

(10) In regulation 28(1), omit sub-paragraphs (b) and (d).

(11) Omit regulation 35(1).

(12) In regulation 41—

(a) in paragraph 1(b), omit “or paragraph (4) or (5) of regulation 35”;

(b) after paragraph 1(e) insert—

“(f) contravenes or fails to comply with the provisions of any instrument made under Article 53 of Regulation 178/2002.”

(13) In Schedule 6, in the entry relating to Article 5(1)(b) of Regulation 2019/1602, in the second column, for “IMSOC” substitute “appropriate computerised information management system”.

The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

11.—(1) The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013(2) are amended as follows.

(2) In Schedule 2—

(a) in Part 1, in paragraph 6, for “another Member State” substitute “a member State of the European Union”;

(b) in Part 2—

(i) in paragraph 2, for “another Member State” substitute “a member State of the European Union”;

(ii) in paragraph 4, for “another Member State” substitute “a member State of the European Union”.

(1) See regulation 16 of these Regulations for provision saving declarations made under regulation 35 of the Official Feed and Food Controls (Wales) Regulations 2009 that are in force immediately before implementation period completion day.

(2) S.I. 2013/479 (W. 55), to which there are amendments not relevant to these Regulations.

The Contaminants in Food (Wales) Regulations 2013

12.—(1) The Contaminants in Food (Wales) Regulations 2013⁽¹⁾ are amended as follows.

(2) In regulation 5—

- (a) in paragraph (1), for “EU provisions” substitute “retained EU law provisions”;
- (b) in paragraph (2), for “EU provisions” substitute “retained EU law provisions”.

(3) In regulation 8(2) (application of various sections of the Food Safety Act 1990), in the text of the modified section 9, for “the EU requirements”, in each place it occurs, substitute “the retained EU law requirements”.

The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013

13.—(1) The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013⁽²⁾ are amended as follows.

(2) In regulation 10(b), for “the European Union” substitute “Great Britain”.

(3) In regulation 14(1)(d), for “territory of the EU” substitute “United Kingdom”.

(4) Omit regulation 15.

(5) In Schedule 1—

- (a) in Table 1, in the entry for Article 26.1, in the second column, for “Commission” substitute “Authority”;
- (b) In Table 2—
 - (i) in the entry for Article 21.1 (as read with Article 22), in the second column, for “a language easily understandable to purchasers” substitute “English, or in English and Welsh”;
 - (ii) in the entry for Article 26.2, in the second column, for “Commission” substitute “Authority”.

(6) In Schedule 2, in Table 1—

- (a) in the entry for Article 10, in the second column, for “Union” substitute “domestic”;

(1) S.I. 2013/2493 (W. 242), amended by S.I. 2018/806 (W. 162).

(2) S.I. 2013/2591 (W. 255), to which there are amendments not relevant to these Regulations. It was amended prospectively by S.I. 2019/425 (W. 99) and 2019/1046 (W. 185) but those amendments are omitted by, respectively, regulations 2(4) and 5(4) of these Regulations.

- (b) in the entry for Article 19.2, in the second column, for “Commission” substitute “Authority”;
- (c) in the entry for Article 19.3, in the second column, for “Commission” substitute “Authority”.

(7) In Schedule 3, in Table 1, in the entry for Article 9.5, in the second column, for “Commission” substitute “Authority”.

(8) In Schedule 4, in Table 1—

- (a) in the entry for Article 4, in the second column, for “Union” substitute “domestic”;
- (b) in the entry for Article 14.1, in the second column, for “Commission” substitute “Authority”;
- (c) in the entry for Article 14.2, in the second column, for “Commission” substitute “Authority”.

The Honey (Wales) Regulations 2015

14.—(1) The Honey (Wales) Regulations 2015(1) are amended as follows.

(2) In regulation 17—

- (a) in paragraph (1)—
 - (i) omit “member State or third”;
 - (ii) for the words from “one of the following” to the end, substitute “the indication “blend of honeys from more than one country” or wording in English with equivalent meaning.”;
- (b) in paragraph (6), for the words from “following indications” to the end, substitute “indication “cyfuniad o felau o fwy nag un wlad” or wording in Welsh with equivalent meaning may be included.”

The Caseins and Caseinates (Wales) Regulations 2016

15.—(1) The Caseins and Caseinates (Wales) Regulations 2016(2) are amended as follows.

(2) In regulation 6—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (d), for “the European Union, the importer into the European Union market” substitute “the United

(1) S.I. 2015/1507 (W. 174), to which there are amendments not relevant to these Regulations.

(2) S.I. 2016/1130 (W. 270).

- Kingdom, the importer into the United Kingdom”;
- (ii) in sub-paragraph (e), for “countries outside the European Union” substitute “a third country”;
- (b) after paragraph (8) insert—
- “(9) In this regulation, “third country” means any country other than the British Islands.”

PART 4

Saving Provision

Saving of declarations made under regulation 35 of the Official Feed and Food Controls (Wales) Regulations 2009

16. Notwithstanding the revocation of regulation 35 of the Official Feed and Food Controls (Wales) Regulations 2009 (by regulation 10(11) of these Regulations), any declaration made under regulation 35 that is in force immediately before implementation period completion day, takes effect after implementation period completion day as if made by the Welsh Ministers in a statutory instrument under Article 53 of Regulation (EC) No. 178/2002 laying down the general principles and requirements of food law⁽¹⁾.

Name

Minister for Mental Health, Wellbeing and Welsh Language, one of the Welsh Ministers

Date

(1) EUR 178/2002, as prospectively amended by S.I. 2019/641.