
W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 371 (W. 114)

**EXITING THE EUROPEAN
UNION, WALES**

FOOD, WALES

AGRICULTURE, WALES

SEEDS, WALES

The Food, Animal Feed and Seeds
(Miscellaneous Amendments and
Transitional Provisions) (Wales)
(EU Exit) Regulations 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred on the Welsh Ministers by paragraph 1(1) of Schedule 2 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 insert transitional provisions into subordinate legislation applying in relation to Wales in the field of food and animal feed standards and labelling and relate to amendments to legislation made by other EU Exit statutory instruments.

The Regulations also correct a minor error in subordinate legislation applying in relation to Wales in relation to the marketing of seeds.

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.

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Sift requirements satisfied 22 March 2021

Made 23 March 2021

Laid before Senedd Cymru 24 March 2021

Coming into force 14 April 2021

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

The requirements of paragraph 4(2) of Schedule 7 to that Act (relating to the appropriate Senedd Cymru(2) procedure for these Regulations) have been satisfied.

(1) 2018 c. 16. There are amendments to paragraph 1 of Schedule 2 which are not relevant to these Regulations. Paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(2) 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).

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⁽¹⁾ there has been open and transparent public consultation during the preparation of these Regulations.

Title and commencement

1.—(1) The title of these Regulations is the Food, Animal Feed and Seeds (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2021.

(2) These Regulations come into force on 14 April 2021.

The Food Hygiene (Wales) Regulations 2006

2.—(1) The Food Hygiene (Wales) Regulations 2006⁽²⁾ are amended as follows.

(2) In regulation 17 (offences and penalties)—

(a) in paragraph (1), for “(8)” substitute “(9)”;

(b) after paragraph (8) insert—

“(9) A person is not considered to have contravened or failed to comply with Article 5(1) of Regulation 853/2004 if—

(a) in the case of a health mark or an identification mark—

(i) the health mark or identification mark was applied to a product of animal origin before IP completion day; and

(ii) the health mark or identification mark complied with Article 5(1) as that Article applied immediately before IP completion day; or

(b) an identification mark is applied to a product of animal origin, on or after the day on which the Food, Animal Feed and Seeds (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations

⁽¹⁾ EUR 178/2002, to which there are amendments not relevant to these Regulations.

⁽²⁾ S.I. 2006/31 (W. 5), amended by S.I. 2010/893 (W. 92); there are other amending instruments but none is relevant to these Regulations.

2021(1) came into force and before the end of 30 September 2022, in accordance with Article 5(1), as that Article applied immediately before IP completion day, using a label, wrapping or packaging bearing that identification mark which is owned by the food business operator immediately before IP completion day.”

The Quick-frozen Foodstuffs (Wales) Regulations 2007

3. In the Quick-frozen Foodstuffs (Wales) Regulations 2007(2), after regulation 11 insert—

“Transitional provision: 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) in respect of the requirements set out in relation to regulation 5(4)(b) if—

- (a) the alleged contravention would relate to a product that was placed on the market on or after the day on which the Food, Animal Feed and Seeds (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2021 came into force and before the end of 30 September 2022; and
- (b) the matter constituting the alleged contravention or failure to comply would not have constituted a contravention of, or failure to comply with those provisions of these Regulations as they had effect immediately before IP completion day.

The Seed Marketing (Wales) Regulations 2012

4.—(1) The Seed Marketing (Wales) Regulations 2012(3) are amended as follows.

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- (1) S.I. 2021/371 (W. 114)
 - (2) S.I. 2007/389 (W. 40), amended by S.I. 2011/1043, S.I. 2014/2303 (W. 227) and S.I. 2019/434 (W. 102). S.I. 2019/434 (W. 102) was subsequently amended by S.I. 2020/1581 (W. 331); there are other amending instruments but none is relevant to these Regulations.
 - (3) S.I. 2012/245 (W. 39), amended by S.I. 2019/368 (W. 90). S.I. 2019/368 (W. 90) was amended by S.I. 2020/1573 (W.

(2) In Schedule 4 (exceptions), in paragraph 10(4), for “, NI Variety List or an equivalent list of a country granted equivalence” substitute “or the NI Variety List”.

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

5. In the Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013⁽¹⁾, after regulation 21 insert—

“Transitional provision: withdrawal from the EU

22.—(1) An authorised officer must not serve on a person an improvement notice relating to a failure to comply with regulation 13(2), in respect of the requirement set out in regulation 14(1)(d), if—

- (a) the improvement notice would relate to a product that was placed on the market on or before 30 September 2022; and
- (b) the matter would not have constituted a failure to comply with those provisions of these Regulations as they had effect immediately before IP completion day.

(2) In this regulation, “improvement notice” means an improvement notice pursuant to regulation 7.”

The Honey (Wales) Regulations 2015

6. In the Honey (Wales) Regulations 2015⁽²⁾, after regulation 22 insert—

“Transitional provisions: withdrawal from the EU

23.—(1) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with regulation 17(1) if—

- (a) the improvement notice would relate to a product that was placed on the market before IP completion day; and

(1) 330). There are other amending instruments but none is relevant to these Regulations
S.I. 2013/2591 (W. 255), amended by S.I. 2020/1581 (W. 331); there are other amending instruments but none are relevant to these Regulations.

(2) S.I. 2015/1507 (W. 174), amended by S.I. 2020/1581 (W. 331); there are other amending instruments but none are relevant to these Regulations.

- (b) the matter constituting the alleged contravention would not have constituted an offence under regulation 17(1) as that provision had effect immediately before IP completion day.

(2) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with regulation 17(1) if—

- (a) the improvement notice would relate to a product that was placed on the market on or before 30 September 2022;
- (b) the product bears one of the indications provided for in regulation 17(1) as that provision had effect immediately before IP completion day;
- (c) had the product been placed on the market immediately before IP completion day, the use of the indication would not have constituted a contravention of regulation 17(1) as that provision had effect immediately before IP completion day; and
- (d) the indication is accurate in identifying the EU, non-EU or EU and non-EU origins, as the case may be, of the honeys in the product.

(3) In this regulation, “improvement notice” means an improvement notice pursuant to regulation 19.”

The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016

7. In the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016⁽¹⁾, in Part 4, after regulation 10 (offence of failing to comply with a specified provision of Regulation 1831/2003) insert—

“Transitional provision: withdrawal from the EU

10A. For the purpose of regulation 10(1), as read with regulation 10(2)(e), a person is not considered to have contravened or failed to comply with Article 16(1)(b) of Regulation 1831/2003 if—

- (a) the alleged contravention would relate to a product that was placed on the market on or after the day on which the

(1) S.I. 2016/386 (W. 120), amended by S.I. 2019/1046 (W. 185) and S.I. 2020/1381 (W. 307): there are other amending instruments but none are relevant to these Regulations.

Food, Animal Feed and Seeds (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2021 came into force and before the end of 30 September 2022; and

- (b) the matter constituting the alleged contravention or failure to comply would not have constituted a contravention of, or failure to comply with, that Article as it had effect immediately before IP completion day.

The Caseins and Caseinates (Wales) Regulations 2016

8. In the Caseins and Caseinates (Wales) Regulations 2016(1), after regulation 9 insert—

“Transitional provision: withdrawal from the EU

10.—(1) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with regulation 6(1)(d) or (e) if—

- (a) the improvement notice would relate to a product that was placed on the market on or before 30 September 2022; and
- (b) the matter constituting the alleged failure to comply would not have constituted a failure to comply with regulation 6(1)(d) or (e) (as the case may be) as those provisions had effect immediately before IP completion day.

(2) In this regulation, “improvement notice” means an improvement notice pursuant to regulation 8.”

Eluned Morgan

Minister for Mental Health, Wellbeing and Welsh Language, one of the Welsh Ministers
23 March 2021

(1) S.I. 2016/1130 (W. 270), amended by S.I. 2020/1581 (W. 331); there are other amending instruments but none are relevant to these Regulations.