

Draft Regulations laid before the National Assembly for Wales under section 59(3) of the Government of Wales Act 2006 and paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.

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

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

FOOD, WALES

**The Food (Miscellaneous
Amendments) (Wales) (EU Exit)
Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 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 subordinate legislation, which apply in relation to Wales, in the field of food marketing, labelling, classification and other related measures.

These Regulations also make provision in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972.

These Regulations update references to certain EU instruments in the Reporting of Prices of Milk Products (Wales) Regulations 2011.

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 the National Assembly for Wales under section 59(3) of the Government of Wales Act 2006 and paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.

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2019 No. (W.)

**EXITING THE EUROPEAN
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The Food (Miscellaneous
Amendments) (Wales) (EU Exit)
Regulations 2019

Made ***

Laid before the National Assembly for Wales

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

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy.

These Regulations make provision for a purpose mentioned in that section and it appears to the Welsh Ministers that it is expedient for any reference in these Regulations to EU instruments to be construed as a reference to those instruments as amended from time to time.

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- (1) S.I. 2010/2690. By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, this designation has effect as if made under section 59(1) of that Act.
- (2) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

The Welsh Ministers, in exercise of the powers conferred by section 2(2) of, and paragraph 1A(1) of Schedule 2 to, the European Communities Act 1972 and paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the European Union (Withdrawal) Act 2018(2), make the following Regulations.

There has been open and transparent public consultation during the preparation of these Regulations 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(3).

In accordance with section 59(3) of the Government of Wales Act 2006(4) and paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before the National Assembly for Wales and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

(2) These Regulations, apart from this regulation and regulation 5, come into force on exit day.

(3) This regulation and regulation 5 come into force on the day after the day on which these Regulations are made.

(4) These Regulations apply in relation to Wales.

The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009

2.—(1) The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009(5) are amended as follows.

(2) In regulation 2(2), for ““EU marketing rules” (*“rheolau marchnata’r UE”*)” substitute ““marketing rules” (*“rheolau marchnata”*)”.

(1) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.
(2) 2018 c. 16.
(3) OJ No. L 31, 1.2.2002, p. 1, to which there are no relevant amendments to Article 9.
(4) 2006 c. 32. Section 59(3) was amended by section 20(2)(c) of the Wales Act 2017 (c. 4).
(5) S.I. 2009/1551 (W. 151), as amended by S.I. 2011/1043, S.I. 2011/2486 (W. 270), S.I. 2013/3270 (W. 320) and S.I. 2018/1216 (W. 249) and to which there are other amendments not relevant to these Regulations.

(3) In the following provisions, for “EU marketing rules” substitute “marketing rules”—

- (a) regulation 2(2), in the definition of “horticultural produce”;
- (b) regulation 3(2);
- (c) regulation 4, paragraphs (4)(a), (5), (6), (7)(a) (in both places where it occurs), (7)(c) and (8);
- (d) regulation 8, paragraphs (1)(f) and (2);
- (e) regulation 9(1);
- (f) regulation 10, paragraphs (1), (3) and (4);
- (g) regulation 11(1), sub-paragraphs (a), (b), (c) and (d);
- (h) regulation 12(2)(e);
- (i) regulation 14, paragraphs (3)(a) and (5)(a)(ii);
- (j) regulation 16(1)(c) (in both places where it occurs).

(4) In regulation 3(2), for “and Scotland inspection bodies or the European Commission” substitute “or Scotland inspection bodies”.

(5) In regulation 4—

- (a) in paragraph (8), for “European Union” substitute “United Kingdom”;
- (b) the heading becomes “Marketing rules offences”.

(6) In regulation 7(3)(a), omit paragraph (ii).

(7) In the Schedule, for “Member States” substitute “the relevant authorities”.

The Eggs and Chicks (Wales) Regulations 2010

3.—(1) The Eggs and Chicks (Wales) Regulations 2010⁽¹⁾ are amended as follows.

(2) In regulation 3(1)—

- (a) after the definition of “the Act”, insert—

““the animal welfare regulations” (“*y rheoliadau lles anifeiliaid*”) means the Welfare of Farmed Animals (Wales) Regulations 2007⁽²⁾.”;
- (b) omit the definition of “Council Directive 1999/74/EC”;
- (c) omit the definition of “region”;

(1) S.I. 2010/1671 (W. 158) to which there are amendments not relevant to these Regulations.

(2) S.I. 2007/3070 (W. 264), as amended by S.I. 2010/2713 (W. 229) and S.I. [insert reference to The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019].

- (d) for the definition of “region of production”, substitute—
 - ““region of production” (*“rhanbarth cynhyrchu”*), in relation to eggs produced at a production site in Wales, and marketed by the producer direct to a final consumer by door-to-door selling or at a local public market, means—
 - (a) the area within a 80 kilometre radius of the boundary of the production site; and
 - (b) any part of Wales that is outside that 80 kilometre radius;”.
- (3) For regulation 13(3) substitute—
 - “(3) The conditions are the conditions in the following provisions of Schedule 2 to the animal welfare regulations—
 - (a) paragraph 2(d) (but not the requirement for perches not to have sharp edges and to be at least 15cm per hen);
 - (b) paragraph 2(e);
 - (c) paragraph 5;
 - (d) paragraph 6(a);
 - (e) paragraph 7(a).”.
- (4) For regulation 14(3) substitute—
 - “(3) The conditions are the conditions in the following provisions of Schedule 2 to the animal welfare regulations—
 - (a) paragraph 2(d) (but not the requirement for perches not to have sharp edges and to be at least 15cm per hen);
 - (b) paragraph 2(e);
 - (c) paragraph 5;
 - (d) paragraph 6(a);
 - (e) paragraph 7(a).”.
- (5) In regulation 19—
 - (a) for paragraph (2) substitute—
 - “(2) The authorised officer may be accompanied by such other persons as the officer considers necessary.”;
 - (b) omit paragraph (14).
- (6) In Schedule 2, in part 2, in the table—
 - (a) in column 2, for the 21st entry (that is, the entry corresponding to the entry for “Article 9(1)” in column 1) substitute—

“Regulation 4 of the Registration of Establishments (Laying Hens) (Wales) Regulations 2004(1)”;

- (b) in column 2, in the 26th entry (that is, the entry corresponding to the entry for “Article 12(2), fourth sub-paragraph” in column 1), for “Chapter III of Council Directive 1999/74/EC” substitute “Schedule 4 to the animal welfare regulations”.

The Beef and Veal Labelling (Wales) Regulations 2011

4.—(1) The Beef and Veal Labelling (Wales) Regulations 2011(2) are amended as follows.

(2) In regulation 4—

(a) in paragraph (1)—

- (i) before “EU legislation” insert “retained direct”;
- (ii) in sub-paragraph (a)(vi), after “third countries” insert “, as read with Article 15za (transitional provisions)”;
- (iii) in sub-paragraph (b)(ii), after “(labelling)” insert “(but see paragraph (4))”;
- (iv) omit sub-paragraph (b)(viii);

(b) after paragraph (3), insert—

“(4) A person does not commit an offence under paragraph (1)(b)(ii) in relation to meat placed on the market on or before 31 December 2020, if the person—

- (a) has failed to comply with Article 2(2)(b) of Commission Regulation (EC) No 1825/2000, but
- (b) has complied with that Article as it applied immediately before exit day.”;
- (c) the heading becomes “Offences under retained direct EU legislation”.

(3) In regulation 6(2), omit “, including any representative of the European Commission”.

The Reporting of Prices of Milk Products (Wales) Regulations 2011

5.—(1) The Reporting of Prices of Milk Products (Wales) Regulations 2011(1) are amended as follows.

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- (1) S.I. 2004/1432 (W. 145) as amended by S.I. [insert reference to The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019] and to which there are amendments not relevant to these Regulations.
 - (2) S.I. 2011/991 (W. 145) as amended by S.I. 2013/3270 (W. 320) and S.I. 2018/1188 (W. 242).

(2) In regulation 2—

(a) for the definition of “Commission Regulation”, substitute—

““Commission Implementing Regulation” (*“Rheoliad Gweithredu’r Comisiwn”*) means Commission Implementing Regulation (EU) 2017/1185 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations⁽²⁾, and any reference to Annex I, Annex II and Annex III to the Commission Implementing Regulation means Annex I, Annex II and Annex III to the Commission Implementing Regulation as amended from time to time;”;

(b) in the definition of “milk products”, for the words “Article 2(3)(a) of, and Annexes 1.A and 1.B to the Commission Regulation” substitute “Point 7 of Annex I, Point 4 of Annex II and Point 9 of Annex III to the Commission Implementing Regulation”.

(3) In regulation 3(1), for “Articles 2 and 3 of the Commission Regulation” substitute “Articles 7, 11 and 12 of the Commission Implementing Regulation”.

6.—(1) The Reporting of Prices of Milk Products (Wales) Regulations 2011, as amended by regulation 5, are further amended on exit day as follows.

(2) In regulation 2—

(a) omit the definition of “Commission Implementing Regulation”;

(b) for the definition of “milk products” substitute—

““milk products” (*“cynhyrchion llaeth”*) means whey powder, skimmed milk powder, whole milk powder, butter, cheeses (including commodity cheeses) and raw milk.”.

(3) In regulation 3(1), omit “for the purposes of Articles 7, 11 and 12 of the Commission Implementing Regulation”.

(1) S.I. 2011/1009.(W. 149).

(2) OJ No. L 171, 4.7.2017, p. 113.

The Poultrymeat (Wales) Regulations 2011

7.—(1) The Poultrymeat (Wales) Regulations 2011⁽¹⁾ are amended as follows.

(2) In regulation 2(1), for ““European poultrymeat provision” (“*darpariaeth cig dofednod Ewropeaidd*”)” substitute ““retained EU poultrymeat provision” (“*darpariaeth cig dofednod yr UE a ddargedwir*”)”.

(3) In regulation 9(1) and (2)(a), for “European” substitute “retained EU”.

(4) In regulation 11(2), omit sub-paragraph (b) and the “and” immediately preceding it.

(5) In regulation 12—

(a) in paragraph (9)(a), for “European Union” substitute “United Kingdom”.

(b) omit paragraph (12).

(6) In regulation 14(1)(a), for “European” substitute “retained EU”.

(7) The heading to Schedule 1 becomes “RETAINED EU POULTRYMEAT PROVISIONS CONTRAVENTION OF WHICH MAY RESULT IN THE ISSUING OF A COMPLIANCE NOTICE”.

The School Milk (Wales) Regulations 2017

8.—(1) The School Milk (Wales) Regulations 2017⁽²⁾ are amended as follows.

(2) In regulation 2(1)—

(a) before the definition of “applicant”, insert—

““aid” (“*cymorth*”) means aid granted pursuant to Article 23(1) of the Council Regulation and in accordance with the Commission Delegated Regulation and Commission Implementing Regulation (but see regulation 5(A1));”;

(b) in the definitions of “Commission Delegated Regulations” and “Commission Implementing Regulation”, for “Union aid” substitute “aid”;

(c) omit the definition of “national aid”;

(d) in the definition of “the residual costs”, for “Union aid and national aid” substitute “aid”;

(e) omit the definition of “Union aid”.

(3) Omit regulation 3.

(4) In regulation 4—

(a) for “national aid”, substitute “aid”;

(b) the heading becomes “Additional aid for eligible pupils”.

(1) S.I. 2011/1719 (W. 195) as amended by S.I. 2013/3270 (W. 320).

(2) S.I. 2017/724 (W. 174).

(5) In regulation 5—

(a) before paragraph (1), insert—

“(A1) In this regulation—

(a) “aid” includes—

(i) any aid granted before exit day pursuant to Article 23(1) of the Council Regulation as it applied before that day; and

(ii) any aid granted by the Welsh Ministers before exit day under regulation 3 of these regulations as it had effect before that day, and

(b) “applicant” is to be construed accordingly.”

(b) in paragraph (1)—

(i) for “Union aid or national aid under regulation 3”, in each of the three places where it occurs, substitute “aid”;

(ii) for “Union aid or national aid under that regulation” substitute “aid”;

(c) the heading becomes “Withholding and recovery of aid”.

(6) In regulation 7(7), omit paragraph (a) and the “and” immediately following it.

(7) Omit regulation 9.

The Carcase Classification and Price Reporting (Wales) Regulations 2018

9.—(1) The Carcase Classification and Price Reporting (Wales) Regulations 2018(1) are amended as follows.

(2) In regulation 2(1)—

(a) in the definition of “classification”, for “European” substitute “retained EU” (in both places where it occurs);

(b) for ““European beef provision” (“*darpariaeth eidion Ewropeaidd*”)” substitute ““retained EU beef provision” (“*darpariaeth eidion yr UE a ddargedwir*”)”;

(c) for ““European pig provision” (“*darpariaeth moch Ewropeaidd*”)” substitute ““retained EU pig provision” (“*darpariaeth moch yr UE a ddargedwir*”)”.

(3) Omit regulation 7(2)(b).

(4) Omit regulation 13(2)(b).

(5) In regulation 15, for “European” substitute “retained EU”.

(1) S.I. 2018/1215 (W. 248).

- (6) In regulation 26—
 - (a) for “European” substitute “retained EU” (in both places where it occurs);
 - (b) the heading becomes “Offences: retained EU beef provisions”.
- (7) In regulation 27—
 - (a) for “European” substitute “retained EU” (in each place where it occurs);
 - (b) the heading becomes “Offences: retained EU pig provisions”.
- (8) In regulation 36(1), for “European” substitute “retained EU” (in both places where it occurs).
- (9) In Schedule 1—
 - (a) in the heading to column 1 of the table, for “European” substitute “retained EU”;
 - (b) in the entry in the fourth row of column 3 of the table, for “Union” substitute “United Kingdom”;
 - (c) the heading becomes “RETAINED EU PROVISIONS: BOVINE CARCASSES”.
- (10) In Schedule 2—
 - (a) in the headings to column 1 of the tables in parts 1 and 2, for “European” substitute “retained EU”;
 - (b) in the table in part 1, in the entry in the third row of column 3, for “methods authorised by the Commission” substitute “authorised methods”;
 - (c) the heading becomes “RETAINED EU PROVISIONS: PIG CARCASSES”.

Name

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

Date