STATUTORY INSTRUMENTS

2025 No. 790

EXITING THE EUROPEAN UNION

The Marking of Retail Goods Regulations 2025

Made - - - -	*at 11.08 p.m. on 1st July 2025*
Coming into force - -	*1st July 2025*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8C(1)(c) of the European Union Withdrawal Act 2018(**1**).

In accordance with paragraphs 8F(1) and (2) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Marking of Retail Goods Regulations 2025.

(2) These Regulations come into force on 1st July 2025.

(3) These Regulations extend to England and Wales and Scotland.

Interpretation

2. In these Regulations—

"appropriate authority" means—

(a) where the retail premises in which retail goods are first placed on the market are in England, the Secretary of State;

(b) where the retail premises in which retail goods are first placed on the market are in Scotland, the Scottish Ministers;

(c) where the retail premises in which retail goods are first placed on the market are in Wales, the Welsh Ministers;

(**1**) 2018 c. 16. Section 8C was inserted by section 21 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) ("the 2020 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(2) of Schedule 5 to the 2020 Act and Schedule 2 to the Retained EU Law (Revocation and Reform) Act 2023 (c. 28). Further to Joint Declaration No.1/2023 of the EU and the United Kingdom in the Joint Committee established by the withdrawal agreement of 24 March 2023, the Protocol (as amended by Joint Committee Decision No.1/2023) is now known as the "Windsor Framework".

"authorised officer" means any person authorised by an appropriate authority or an enforcement authority in writing, either generally or specifically, to act in matters arising under these Regulations;

"enforcement authority" means—

(a) the Food Standards Agency;

(b) a county council;

(c) a county borough council;

(d) a metropolitan district council;

(e) a non-metropolitan district council for an area for which there is no county council;

(f) a London borough council;

(g) the Common Council of the City of London (in their capacity as a local authority);

(h) the Council of the Isles of Scilly; or

(i) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**2**);

"final consumer" means the ultimate consumer of a retail good who does not intend to use that good in the course of any business operation or activity;

"food for special medical purposes" has the same meaning as in Article 2(2)(g) Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 as it has effect in Great Britain(**3**);

"Gazette" means—

(a) in respect of a marking notice applicable to a relevant business operator that is a company registered in England and Wales, the London Gazette; and

(b) in respect of a marking notice applicable to a relevant business operator that is a company registered in Scotland, the Edinburgh Gazette;

"improvement notice" has the meaning given in regulation 9(1);

"Independent Monitoring Panel" means the panel known as the Windsor Framework Independent Monitoring Panel appointed by the Secretary of State;

"individual marking" means a marking as described in paragraph 1 of Annex 4 of the SPS Regulation;

"marking notice" has the meaning given in regulation 3(2);

"placed on the market" means the holding of retail goods for the purpose of sale, including offering for sale, and the sale at retail premises to a final consumer;

"relevant business" means any undertaking, whether for profit or not and whether public or private, carrying out any activity related to any stage of production, processing and distribution of retail goods;

"relevant business operator" means—

(a) the operator under whose name or business name the retail goods are marketed; or,

(b) in the case of retail goods in the form of plants, the packager;

(**2**) 1994 c. 39.
(**3**) EUR 2013/609. Relevant amendments were made by S.I. 2019/651.

"retail goods" means retail goods as defined in Article 2(2) of the SPS Regulation, that are subject to an obligation arising out of Article 6(1) of that regulation;

"retail premises" means any premises used by a relevant business operator for the purposes of selling or possessing, offering, exposing or advertising for sale any retail goods to a final consumer;

"small company" means a company that qualifies as a small company under section 382 or 383 of the Companies Act 2006(**4**) and that is not excluded from the small companies regime by section 384 of that Act;

"SPS Regulation" means Regulation (EU) 2023/1231 of the European Parliament and of the Council on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes as well as non-commercial movements of certain pet animals into Northern Ireland(**5**).

Power of the Secretary of State to specify which retail goods are to be individually marked

3.—(1) This paragraph applies where the Secretary of State, after consultation with the Welsh Ministers and the Scottish Ministers, determines that the availability to consumers of certain retail goods in Northern Ireland is, or is likely to be, seriously adversely affected by relevant business operators, in respect of those goods, withdrawing from supplying those goods to Northern Ireland as a result of labelling requirements imposed by the SPS Regulation.

(2) Where paragraph (1) applies, the Secretary of State must issue a notice (a "marking notice") requiring that the retail goods specified in the notice bear an individual marking when they are first placed on the market.

(3) When reaching a determination referred to in paragraph (1), the Secretary of State may have regard to—

(a) trade flows or trade patterns;

(b) the resilience of the supply chains supporting the supply of retail goods to Northern Ireland;

(c) advice from the Independent Monitoring Panel;

(d) any other data or information that the Secretary of State considers relevant to the decision to issue a marking notice under paragraph (2).

Requirements of the marking notice

4.—(1) The marking notice must be in writing and must be published in the Gazette.

(2) The marking notice must specify the date from which such goods must bear an individual marking, when first placed on the market in Great Britain.

(3) Before a marking notice is published under paragraph (1), the Secretary of State must make a statement explaining why the decision to issue the marking notice was justified.

(4) If the Secretary of State fails to make a statement required by paragraph (3) before the marking notice is published, they must make a statement explaining why they failed to do so.

(5) A statement under paragraph (3) or (4) must be made in writing and be published in such manner as the Secretary of State considers appropriate.

(**4**) As amended by the Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008) and The Companies (Accounts and Reports) (Amendment and Transitional Provision) Regulations 2024 (S.I. 2024/1303) and The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), as amended.

(**5**) OJ No L 165, 29.6.2023, p.103.

Obligation to comply with a marking notice

5.—(1) The relevant business operator who first places on the market in Great Britain a retail good that is specified in a marking notice may not do so after the date specified in that notice unless that relevant business operator has applied or secured the application of the individual marking to those retail goods.

(2) A relevant business operator to which paragraph (1) applies is not required to apply or secure the application of an individual marking to retail goods that are subject to a marking notice where those goods were first placed on the market in Great Britain before the date specified in the notice.

Exemption

6. Retail goods that have been specified in a marking notice do not need to be individually marked before they are first placed on the market in Great Britain if, they are—

(a) retail goods that are first placed on the market in Great Britain by a small company;

(b) retail goods that have been—

(i) manufactured; or

(ii) produced;

by a small company;

(c) food for special medical purposes;

(d) qualifying Northern Ireland goods(**6**).

Enforcement

(a) (a) The appropriate authority is responsible for enforcing these Regulations.

(b) The appropriate authority may delegate responsibility for enforcing these regulations to an enforcement authority.

Powers of entry and inspection

8.—(1) An authorised officer may enter any retail premises within the authority's area for the purpose of enforcing these Regulations.

(2) An authorised officer must, on producing some duly authenticated document showing their authority, at all reasonable hours be granted access to any retail premises, whether within or outside the authority's area, for the purpose of ascertaining whether there is on the premises any evidence of any contravention within that area of a marking notice.

(3) An authorised officer entering any retail premises by virtue of this regulation may take with them such other persons as they consider necessary, and on leaving any unoccupied premises which they have entered by virtue of this regulation must leave them as effectively secured against unauthorised entry as they found them.

(4) An authorised officer entering premises by virtue of this regulation, may inspect any records (in whatever form they are held) relating to a relevant business and, where any such records are stored in any electronic form—

(a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and

(**6**) For the definition of 'qualifying Northern Ireland goods'; see S.I. 2020/1454, as amended by The Windsor Framework (UK Internal Market and Unfettered Access) Regulations 2024 (S.I. 2024/163).

(b) require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford them such assistance as they may reasonably require.

(5) Any authorised officer exercising any power conferred by paragraph (4) above may—

(a) seize and detain any records which they have reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations; and

(b) where the records are stored in any electronic form, may require the records to be produced in a form in which they may be taken away.

Improvement notices

9.—(1) If an authorised officer has reasonable grounds for believing that a relevant business operator is failing to comply with the requirements of regulation 5(1) the authorised officer may, by a notice served on the relevant business operator (an "improvement notice")—

(a) state the officer's grounds for believing that the relevant business operator is failing to comply with a marking notice;

(b) specify the matters which constitute the relevant business operator's failure to comply;

(c) specify the measures which, in the officer's opinion, the relevant business operator must take in order to secure compliance; and,

(d) require the relevant business operator to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.

(2) Any relevant business operator who fails to comply with an improvement notice may be required to pay a fixed monetary penalty.

Fixed Monetary Penalties

10. The Schedule has effect and makes provision for fixed monetary penalties.

Service of notices

11.—(1) Any notice issued under these Regulations, may be given or served by either—

(a) delivering it by hand to the business premises to which it is addressed;

(b) leaving it, or sending it in a prepaid letter addressed to a company officer, at their office;

(c) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to them at that office; or

(d) in the case of any other person, by leaving it, or sending it in a prepaid letter addressed to that person, at their usual or last known residence.

(2) Where a document is to be given to or served on the owner or the occupier of any premises and it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of "owner" or "occupier" of the premises (naming them) and—

(a) by delivering it to some person on the premises; or

(b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Power to require returns

12. Each enforcement authority must provide to the corresponding appropriate authority such information in respect of the exercise of those functions as the appropriate authority may request, in such form and within such timeframe as may be reasonably required.

Review

13.—(1) Before the end of each review period, the Secretary of State must—

(a) carry out a review of these Regulations;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) The report must in particular—

(a) set out the objectives intended to be achieved by these Regulations;

(b) assess the extent to which the objectives have been achieved;

(c) assess whether the objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way

(3) The first review period is the period of two years beginning with the day on which these Regulations come into force.

(4) Each subsequent review period is a period of five years beginning with the date on which the report of the preceding review was published.

Hayman of Ullock
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

at 11.08 p.m. on 1st July 2025

Schedule Regulation 10

Fixed Monetary Penalties

Civil sanctions

1.—(1) Where an authorised officer is satisfied on the balance of probabilities that a relevant business operator has failed to comply with an improvement notice, imposed in accordance with regulation 9(2) they may impose a fixed monetary penalty.

(2) In this Schedule, "fixed monetary penalty" means a penalty of £2,500 unless paragraph 10(3) of this Schedule applies.

Notice of intent

2.—(1) When an authorised officer proposes to impose a fixed monetary penalty on a person, the officer must serve on that person a notice of what is proposed ("a notice of intent").

(2) The notice of intent must include—

(a) the grounds for the proposal to impose the fixed monetary penalty;

(b) the amount of the penalty;

(c) a statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was received; and

(d) information as to—

(i) the effect of that discharge payment,

(ii) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received, and

(iii) the circumstances in which an authorised officer may not impose the fixed monetary penalty.

Discharge of liability

3. Liability for the fixed monetary penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

Making representations and objections

4. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the enforcement authority in relation to the proposed imposition of the fixed monetary penalty.

Service of final notice

5.—(1) If the person who has received a notice of intent does not discharge liability for the penalty within the 28 day period referred to in paragraph 4, the authorised officer may serve a final notice imposing a fixed monetary penalty.

(2) If the authorised officer is satisfied on the balance of probabilities that a person would not be liable to comply with an improvement notice because—

(a) that person is not a relevant business operator to whom regulation 5(1) applies;

(b) the retail goods to which the improvement notice relates are not specified in a marking notice;

(c) of any representation or objection made under paragraph 4;

(d) of any other reason,

that officer may not serve a final notice in relation to that improvement notice.

(3) An authorised officer who serves a final notice imposing a fixed monetary penalty in relation to the failure to comply with an improvement notice may not serve any other notice under these Regulations in relation to the same failure to comply with that improvement notice.

Contents of final notice

6.—(1) A final notice must include information as to—

(a) the amount of the fixed monetary penalty;

(b) the grounds for imposing the penalty;

(c) how payment may be made;

(d) the period within which payment must be made;

(e) the consequences of early and late payment;

(f) rights of appeal; and

(g) the consequences of non-payment.

(2) The authorised officer may not serve a final notice after a period of six months beginning with the day which is the final day on which written representations and objections may be made in relation to the notice of intent, under paragraph 2(d)(ii).

(3) The period mentioned in sub-paragraph (2) may be extended by agreement in writing between the authorised officer and the relevant business operator on whom the notice was served.

Discount for early payment

7. If a person who was served with a notice of intent makes representations or objections concerning that notice within the time limit provided for in paragraph 4, that person may discharge liability under the final notice by paying 50% of the amount of the penalty within 14 days beginning with the day on which the final notice was received.

Grounds of appeal

8.—(1) The person receiving the final notice may appeal against it.

(2) The grounds for appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was wrong for any other reason.

Appeals

9.—(1) An appeal under paragraph 8 is to the First-tier Tribunal.

(2) A final notice is suspended pending the determination or withdrawal of the appeal.

(3) The First-tier Tribunal may withdraw, confirm or vary the final notice.

Non-payment after 28 days

10.—(1) The fixed monetary penalty must be paid within 28 days of receipt of the final notice.

(2) If the fixed monetary penalty is not paid within 28 days the amount payable is increased by 50%.

(3) In the case of an appeal the fixed monetary penalty must be paid within 14 days of the determination of the appeal (if the appeal is unsuccessful), and if it is not paid within 14 days the amount of the fixed monetary penalty is increased by 50%.

Recovery of payments

11. An enforcement authority may recover any fixed monetary penalty imposed under this Schedule as a civil debt.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require the Secretary of State to issue a marking notice requiring that the retail goods specified in that notice be individually marked with the words 'not for EU', where the supply of certain retail goods to Northern Ireland is, or is likely to be adversely affected.

The Regulations ensure that retail goods which need to be individually marked to move from Great Britain to Northern Ireland under Regulation (EU) 1231/2023 on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland must, where necessary to ensure the continued availability of retail goods in Northern Ireland, be required to be individually marked when first placed on the market for sale to final consumers in Great Britain.

Regulation 10 and the Schedule to these Regulations make provision for the enforcement of the obligation to apply or ensure that an individual marking is affixed to retail goods that have been specified in a marking notice.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Environment, Food and Rural Affairs, 2 Marsham Street. London SW1P 4DF.