
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 288

**EXITING THE EUROPEAN UNION
AGRICULTURE
ANIMALS
FOOD**

**The Animal Health and Welfare and Official
Controls (Animals, Feed and Food) (EU Exit)
(Scotland) (Amendment) Regulations 2019**

*Made - - - - 10th September 2019
Laid before the Scottish
Parliament - - - - 12th September 2019
Coming into force in accordance with regulation 1*

The Scottish Ministers make these Regulations in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972⁽¹⁾, paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018⁽²⁾ and all other powers enabling them do so.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018, they have consulted with the Secretary of State.

(1) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(1) and (3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The European Communities Act 1972 is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) from exit day (see section 20 of that Act).

(2) 2018 c.16.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force as follows—

- (a) as regards this Part and Part 2, on 31 October 2019,
 - (b) as regards regulation 7 in Part 3, immediately before exit day,
 - (c) as regards regulations 4 to 6 in Part 3, on exit day.
- (2) These Regulations extend to Scotland only.

PART 2

Amendment of secondary legislation in exercise of powers under section 2(2) of the European Communities Act 1972

Amendment of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007

2. In regulation 2 (interpretation) of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007(3)—

- (a) in paragraph (1), in the definition of “Regulation 882/2004”—
 - (i) in the text before sub-paragraph (a), after “welfare rules” insert “, as last amended by Commission Implementing Regulation (EU) 2018/1587(4)”,
 - (ii) in sub-paragraph (b), at the end insert “, as last amended by Commission Regulation (EU) 2017/1980(5)”,
 - (iii) in sub-paragraph (d), at the end insert “, as last amended by Regulation (EU) 2019/1243(6)”,
- (b) in paragraph (2)(c), for the words from “Council Regulation” to the end, substitute “Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs(7)”,
- (c) in paragraph (3), after “animal nutrition”, insert “, as last amended by Regulation (EU) 2019/1243(8)”,.

Amendment of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012

3. In the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012(9), for regulation 8(a) (conditions for a certificate) substitute—

- “(a) submit a qualification certificate in respect of the operation, category of animal and, where appropriate, type of equipment for which a certificate is sought.”.

(3) S.S.I. 2007/91, to which there are amendments not relevant to these Regulations.

(4) OJ L 264, 23.10.2018, p.20.

(5) OJ L 285, 1.11.2017, p.8.

(6) OJ L 198, 25.7.2019, p.241.

(7) OJ L 343, 14.12.2012, p.1.

(8) OJ L 198, 25.7.2019, p.241.

(9) S.S.I. 2012/321, to which there are amendments not relevant to these Regulations.

PART 3

Amendment of secondary legislation to address deficiencies arising from the withdrawal of the United Kingdom from the European Union

Amendment of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007

4.—(1) The Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007⁽¹⁰⁾ are amended as follows.

- (2) In regulation 6 (exchange of information), omit “and other member States”.
- (3) In Part 3, in the heading, omit “Community”.
- (4) In regulation 10 (community controls)—
 - (a) in the heading, for “Community” substitute “Experts involved in”,
 - (b) in the words before paragraph (a), omit “to be carried out by Commission experts pursuant to Article 45”,
 - (c) in paragraph (a), omit “such”.
- (5) Omit regulation 12 (facilitating assistance and co-operation under Title IV).
- (6) In regulation 14(1)(d) (interpretation and application of Part 5), omit “and 12”.
- (7) In regulation 17(1)(c) (offences and penalties), for “, 10 or 12” substitute “or 10”.

Amendment of the Trade in Animals and Related Products (Scotland) Regulations 2012

5.—(1) The Trade in Animals and Related Products (Scotland) Regulations 2012⁽¹¹⁾ are amended as follows.

- (2) In regulation 2 (interpretation)—
 - (a) in paragraph (1), after the definition of “official veterinarian” insert—

““the published nomenclature list” means the list of products published and amended from time to time by the Secretary of State, specifying products by reference to the relevant nomenclature for the purposes of determining the selection of consignments that must be submitted to veterinary checks at a border inspection post;”,
 - (b) omit the definition of “product”.
- (3) In regulation 4 (international agreements), after “from” insert “the Faroe Islands, Greenland”.
- (4) In regulation 7(a) (scope of part 3), after “product” insert “specified in the published nomenclature list”.
- (5) In regulation 10(2) (appointment of official veterinarians and official fish inspectors), for “the Table in Chapter 3 of Annex I to Commission [Decision 2007/275/EC](#)” substitute “Chapter 3 (fish and crustaceans, molluscs and other aquatic invertebrates) of the published nomenclature list”.
- (6) In regulation 13 (procedure on importation)—
 - (a) in paragraph (1), in the words before sub-paragraph (a), for “documentation” to “Schedule 1” substitute “relevant health certificate published by the Scottish Ministers”,
 - (b) in paragraph 3(a), for “requirements relating to it in the relevant” substitute “conditions of trade relevant to it in any retained EU law or European Union”.

⁽¹⁰⁾ [S.S.I. 2007/91](#), to which there are amendments not relevant to these Regulations.

⁽¹¹⁾ [S.S.I. 2012/177](#), as relevantly amended by [S.S.I. 2019/5](#) and [S.S.I. 2019/71](#). The amendments made by [S.S.I. 2019/71](#) come into force on exit day.

(7) In schedule 3 (cases to which part 3 does not apply), paragraph 5(1) (case 5: composite products), for “Annex II to Commission [Decision 2007/275/EC](#)” substitute “the list of composite products and foodstuffs exempt from veterinary import checks published by the Secretary of State”.

Amendment of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012

6. In the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012(12), in regulation 2(1) (interpretation), in the definition of “qualification certificate”, after paragraph (a) insert—

- “(aa) a document attesting the passing of an independent final examination issued by—
 - (i) a body designated by the Republic of Ireland as responsible for delivering certificates in accordance with Article 21(1) of the EU Regulation as it has effect in EU law as amended from time to time, or
 - (ii) a body to whom the function of the final examination or the issuing of certificates has been delegated in the Republic of Ireland in accordance with Article 21(2) of the EU Regulation as it has effect in EU law as amended from time to time, or
- (ab) a certificate issued in the Republic of Ireland in reliance on article 29(2) of the EU Regulation, or”.

Revocation

7. Regulation 19(2)(b) (the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007) of the Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019(13) is revoked.

St Andrew’s House, Edinburgh
10th September 2019

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

(12) S.S.I. 2012/321, as relevantly amended by S.S.I. 2015/161.

(13) S.S.I. 2019/71.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are mainly made in exercise of the powers in the European Union (Withdrawal) Act 2018 (c.16) to address deficiencies in EU-derived domestic legislation in the fields of animal health and welfare and official controls (relating to animals, feed and food) in Scotland arising from the withdrawal of the United Kingdom from the European Union. But Part 2 is made in exercise of powers conferred by section 2(2) of the European Communities Act 1972 (c.68).

Regulation 2 updates references to EU legislation in the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007. Regulation 3 amends the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 to make it clear that an applicant for a certificate of competence no longer has the option of demonstrating relevant professional experience, as this is no longer available under the EU law. These amendments come into force on 31 October 2019.

Regulations 4, 5 and 6 amend, respectively, the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007, the Trade in Animals and Related Products (Scotland) Regulations 2012, and the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012, so as to prevent, remedy or mitigate deficiencies arising from the withdrawal of the United Kingdom from the European Union. These amendments come into force on exit day.

Regulation 7 revokes regulation 19(2)(b) (the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007) of the Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019. This comes into force immediately before exit day.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.