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

D R A F T S T A T U T O R Y I N S T R U M E N T S

2021 No. 000

FOOD

The Food and Drink (Miscellaneous Amendments Relating to Food and Wine Composition, Information and Labelling) Regulations 2021

Made - - - -	*2021*
Coming into force - -	*2021*

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The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**a**).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of these Regulations was laid before, and approved by a resolution of, each House of Parliament.

There has been consultation 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.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Food and Drink (Miscellaneous Amendments Relating to Food and Wine Composition, Information and Labelling) Regulations 2021 and come into force on the day after the day on which they are made.

PART 2

Amendment of subordinate legislation

Amendment of the Food Information Regulations 2014

2. In the Food Information Regulations 2014(**b**), after regulation 15 insert—

"**Transitional provisions: withdrawal from the EU**

16.—(1) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with Article 9(1)(h) of FIC if—

(a) the improvement notice would relate to a product that was placed on the market before the last day of the period of 21 months beginning with the day on which IP completion day falls; and

(b) the matter would not have constituted a failure to comply with that provision of FIC(**c**) as it had effect in EU law 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 Article 7(1) or Article 36(2)(a) or (b) of FIC if—

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

(b) the labelling of the specified product would not have constituted a failure to comply with those provisions of FIC as they had effect in EU law immediately before IP completion day.

(3) Products to which paragraph (1) or (2) applies may continue to be marketed until stocks are exhausted.

(**a**) 2018 c. 16. Paragraph 21 of Schedule 7 was amended by paragraph 53 of Part 2 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).
(**b**) S.I. 2014/1855, to which there are amendments not relevant to these Regulations.
(**c**) Regulation (EU) No 1169/2011 (OJ L 304 22.11.2011, p. 18).

(4) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with Article 7(1) or Article 36(2)(a) or (b) of FIC if—

(a) the improvement notice would relate to a specified product placed on the market within the period beginning with IP completion day and ending with the end of the relevant period; and

(b) the labelling of the specified product would not have constituted a failure to comply with those provisions of FIC as they had effect in EU law immediately before IP completion day.

(5) Wine products to which paragraph (4) applies may continue to be marketed until stocks are exhausted.

(6) Other products to which paragraph (4) applies may continue to be marketed until the end of the relevant period.

(7) In this regulation—

"improvement notice" means an improvement notice pursuant to regulation 12(1);

"relevant period" means the period of three years beginning with the day after the day on which IP completion day falls;

"specified product" means an individually identifiable product, including a wine product, bearing an indication listed in point 5, 6 or 7 of Annex 10 to Commission Implementing Regulation (EU) No 668/2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs(**a**) as that Regulation had effect in EU law immediately before IP completion day;

"wine product" means a product to which Part 2 of Annex 7 to Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products(**b**) as that Regulation had effect in EU law immediately before IP completion day applies.".

Amendment of the Country of Origin of Certain Meats (England) Regulations 2015

3. In the Country of Origin of Certain Meats (England) Regulations 2015(**c**), after regulation 7 insert—

"**Transitional provisions: withdrawal from the EU**

8.—(1) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with the second subparagraph of Article 5(1), Article 6 or Article 7 of the Commission Regulation if—

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

(b) the matter would not have constituted a failure to comply with those provisions of the Commission Regulation(**d**) as that Regulation had effect in EU law 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 the second subparagraph of Article 5(1), Article 6 or Article 7 of the Commission Regulation if—

(a) the improvement notice would relate to a product placed on the market within the period of 21 months beginning with the day on which IP completion day falls;

(**a**) OJ L 179, 19.6.2014, p. 36.
(**b**) OJ L 347, 20.12.2013, p. 671.
(**c**) S.I. 2015/518, to which there are amendments not relevant to these Regulations.
(**d**) Commission Implementing Regulation (EU) No 1337/2013 (OJ L 335, 14.12.2013, p. 19).

(b) the product bears one of the indications provided for in the second subparagraph of Article 5(1), Article 6 or Article 7 of the Commission Regulation as those provisions had effect in EU law immediately before IP completion day; and

(c) the use of the indication would not constitute a failure to comply with those provisions of the Commission Regulation as that Regulation had effect in EU law immediately before IP completion day.

(3) In this regulation, "improvement notice" means an improvement notice pursuant to regulation 6(1).".

Amendment of the Honey (England) Regulations 2015

4.—(1) The Honey (England) Regulations 2015(**a**) are amended as follows.

(2) In regulation 17(1)—

(a) omit "member State or third";

(b) for the words from "one of the" to the end substitute "the indication "blend of honeys from more than one country" or similar wording".

(3) After regulation 22 insert—

"**Transitional provisions: withdrawal from the EU**

22A.—(1) An authorised officer of a food authority must not serve on a person an improvement notice relating to a contravention of regulation 17(1) if—

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

(b) the matter would not have constituted a contravention of 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 contravention of regulation 17(1) if—

(a) the improvement notice would relate to a product that was placed on the market within the period of 21 months beginning with the day on which IP completion day falls;

(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.".

Amendment of the Caseins and Caseinates (England) Regulations 2017

5. —(1) The Caseins and Caseinates (England) Regulations 2017(**b**) are amended as follows.

(2) In regulation 4—

(a) in paragraph (2)—

(i) in sub-paragraph (d), for "EU", in both places it occurs, substitute "United Kingdom";

(**a**) S.I. 2015/1348, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2017/848.

(ii) in sub-paragraph (e), for "country which is not a member State" substitute "third country";

(b) in paragraph (6), after paragraph (b) insert—

"(c) "third country" means any country, other than the United Kingdom, and includes—

(i) the Bailiwick of Guernsey;

(ii) the Bailiwick of Jersey;

(iii) the Isle of Man.".

(3) 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 4(2)(d) or (e) if—

(a) the improvement notice would relate to a product that was placed on the market before the last day of the period of 21 months beginning with the day on which IP completion day falls; and

(b) the matter would not have constituted a failure to comply with regulation 4(2)(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 7.".

PART 3

Amendment of retained direct EU legislation

Amendment of Regulation (EU) No 1169/2011

6. In Article 8(1) of Regulation (EU) No 1169/2011(**a**) of the European Parliament and of the Council on the provision of food information to consumers—

(a) for "Union", in the first place it occurs, substitute "British Islands";

(b) for "Union market" substitute "British Islands".

Amendment of Commission Implementing Regulation (EU) No 1337/2013

7.—(1) Commission Implementing Regulation (EU) No 1337/2013(**b**) laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry is amended as follows.

(2) In Article 2(2), after point (b) insert—

"(c) 'country', in relation to the United Kingdom, means the United Kingdom as a whole and does not mean England, Northern Ireland, Scotland or Wales individually.".

(3) In Article 5—

(a) in paragraph 1—

(i) in the first subparagraph, in points (a) and (b), omit "Member State or third" in each place it occurs;

(**a**) EUR 2011/1169, as amended by S.I. 2019/529, 778 and 2020/1501.
(**b**) EUR 2013/1337.

(ii) in the second subparagraph—

(aa) omit "Members States or third";

(bb) for the words from "'Reared in'", in the first place it occurs, to the end substitute "'Reared in several countries'";

(iii) in the third subparagraph omit "Member States or third" in each place it occurs;

(b) in paragraph 2 omit "Member State or third" in both places it occurs;

(c) in paragraph 3, in point (a), omit "Member States or third";

(d) after paragraph 3 insert—

"4. In this Article, 'country' includes:

(a) the Bailiwick of Guernsey;

(b) the Bailiwick of Jersey;

(c) the Isle of Man.".

(4) In Article 6—

(a) in the heading, for "third" substitute "other";

(b) for "Union market" substitute "market in Great Britain";

(c) for "non-EU" substitute "non-UK";

(d) omit "third";

(e) after the existing paragraph insert—

"In this Article, 'country' means any country, other than the United Kingdom, and includes:

(a) the Bailiwick of Guernsey;

(b) the Bailiwick of Jersey;

(c) the Isle of Man.".

(5) In Article 7—

(a) omit points (a) and (b);

(b) in point (c)—

(i) for "non-EU" substitute "non-UK";

(ii) for "Union" substitute "United Kingdom";

(c) in point (d)—

(i) for "non-EU" substitute "non-UK";

(ii) for "in: EU" substitute "in: UK";

(iii) for "Union" substitute "United Kingdom";

(iv) for "one or different Member States" substitute "the United Kingdom";

(d) for point (e) substitute—

"(e) in a case where neither the indication in point (c) or (d) would be accurate, an indication of rearing and slaughtering as follows:

(i) 'Reared in:' followed, as appropriate, by 'UK', 'non-UK' or 'UK and non-UK'; and

(ii) 'Slaughtered in:' followed, as appropriate, by 'UK', 'non-UK' or 'UK and non-UK'.".

(6) In Article 9, omit the words from "It shall be" to "Member States".

Amendment of Commission Implementing Regulation (EU) 2018/775

8. In Article 2 of Commission Implementing Regulation (EU) 2018/775(**a**) laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food, for point (a)(i) substitute—

"(i) 'UK', 'non-UK' or 'UK and non-UK;".

Amendment of Commission Delegated Regulation (EU) 2019/33

9.—(1) Commission Delegated Regulation (EU) 2019/33(**b**) supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation is amended as follows.

(2) Omit Article 5(3).

(3) Omit Article 23.

(4) Article 45 is amended in accordance with paragraphs (5) to (7).

(5) In paragraph 1—

(a) in the first subparagraph—

(i) in point (a)—

(aa) for "', *product of* (…)' or '*sekt of* (…)'" substitute " or '*product of* (…)'";

(bb) for "Member State" substitute "constituent nation of the United Kingdom";

(ii) omit points (b) and (c);

(iii) in point (d), before "third", in both places it occurs, insert "constituent nations of the United Kingdom or";

(iv) in point (e)—

(aa) before "third", in the first place it occurs, insert "constituent nations of the United Kingdom or";

(bb) before "third", in the second and third places it occurs, insert "constituent nation of the United Kingdom or";

(b) in the second subparagraph, for "Member State" substitute "constituent nation of the United Kingdom or third country".

(6) In paragraph 2—

(a) in point (a), for "Member State" substitute "constituent nation of the United Kingdom or third country in which the grapevine product was produced";

(b) in point (b)—

(aa) omit "European Union";

(bb) for "Member States" substitute "third countries";

(c) in point (c), for "Member State" substitute "constituent nation of the United Kingdom or third country".

(7) For paragraph 3, substitute—

"3. As regards the provisions laid down in paragraph 1 and 2, 'United Kingdom' may be used instead of constituent nation to indicate provenance.

(**a**) EUR 2018/775, as amended by S.I. 2020/1501.
(**b**) EUR 2019/33, as amended by S.I. 2020/1637.

4. In this Article, 'constituent nation' means England, Northern Ireland, Scotland or Wales, as the case may be.".

(8) In Article 46—

(a) in paragraph 1—

(i) in point (a)—

(aa) for "European Union" substitute "United Kingdom";

(bb) after "behalf" insert ", but for the purposes of paragraph 4, until (and including) 30 September 2022, the bottler may be established in the European Union";

(ii) in point (d)—

(aa) for "Union", in the first place it occurs, substitute "United Kingdom or, until (and including) 30 September 2022, in the European Union";

(bb) for the words from "non-Union" to the end substitute "chargeable goods within the meaning given by section 2 of the Taxation (Cross-border Trade) Act 2018(**a**)";

(iii) in point (f) omit "Member State or third";

(b) in paragraph 2—

(i) in the first subparagraph, in point (b)—

(aa) in the words before point (i), omit "by terms, whose conditions of use are defined by Member States,";

(bb) in point (iii), for "concerned." substitute—

"concerned,

by any term authorised by the appropriate authority under legislation that prescribes the conditions under which any such term may be used, provided that the term is used in accordance with any such conditions.";

(ii) in the third subparagraph, for "Member State, the name of that State" substitute "country, the name of that country";

(iii) in the fourth subparagraph omit the words from ", except" to the end;

(c) in paragraph 3, in the second subparagraph, for "Member States may decide to" substitute "Nothing in this Regulation prevents the appropriate authority from making legislation to";

(d) in paragraph 4—

(i) for "Union" substitute "United Kingdom";

(ii) before "2" insert "1(a) and";

(e) in paragraph 5, in the second subparagraph—

(i) for the words from "determined" to "head office" substitute ", if specified in legislation";

(ii) for "Member State in question" substitute "country in which the bottler, producer, importer or vendor has its head office";

(f) in paragraph 6 omit the final subparagraph.

(9) In Annex 4—

(a) in the table in Part A—

(i) in row 2, omit "Algeria,";

(ii) in row 4, omit ", Serbia and Montenegro (6)";

(**a**) 2018 c. 22.

(iii) omit row 6;

(iv) in row 10, omit "Former Yugoslav Republic of Macedonia (13-20-30),";

(v) in row 11, omit ", Serbia and Montenegro (17-30)";

(vi) in row 13, omit "Former Yugoslav Republic of Macedonia (10-20-30),";

(vii) omit row 15;

(viii) in row 17, omit "Serbia and Montenegro (11-30),";

(ix) in row 18, omit ", Serbia and Montenegro";

(x) omit rows 19 to 21;

(xi) in row 30, omit "Former Yugoslav Republic of Macedonia (10-13-20), Serbia and Montenegro (11-17),";

(xii) omit row 34;

(xiii) omit row 52;

(b) in the table in Part B—

(i) in row 7, omit "Argentina," and "Uruguay,";

(ii) in row 39, omit "Serbia and Montenegro (40-41-46),";

(iii) in row 40, omit "Serbia and Montenegro (39-43-46),";

(iv) in row 42, omit "Moldova, New Zealand,";

(v) in row 43, omit "Serbia and Montenegro (39-40-46),";

(vi) omit row 46;

(vii) in row 47, omit "Former Yugoslav Republic of Macedonia,".

Amendment of Commission Delegated Regulation (EU) 2019/934

10.—(1) Commission Delegated Regulation (EU) 2019/934(**a**) supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files is amended as follows.

(2) In Article 3, in paragraph 2—

(a) for "Commission" substitute "appropriate authority";

(b) for "in the Official Journal of the European Union, C series" substitute "on the gov.uk website".

(3) In Article 8, omit paragraph 2.

(4) Annex 1 is amended in accordance with paragraphs (5) to (8).

(5) In Part A—

(a) in Table 1, in row 9, in column 2 (conditions and limits of use), omit the sentence beginning "In Italy";

(b) in Table 2—

(i) in column 7 (conditions and limits of use), in the entry corresponding to rows 1.1 to 1.7, omit "Specifications for tartaric acid (L(+)-) laid down in point 2 of Appendix 1 to this Annex.";

(ii) in row 6.11, in column 8 (categories of wine products), for "Vins blancs" substitute "White wines";

(iii) omit row 11.1;

(**a**) EUR 2019/934, as amended by S.I. 2020/1637.

(iv) in footnote (1), for "Union" substitute "European Union or, after IP completion day, legislation in force in Great Britain";

(c) omit Appendix 1 and 2;

(d) in Appendix 3—

(i) in the first subparagraph, omit "and Union and national provisions adopted in implementation thereof";

(ii) in the second subparagraph, for the words from "authorities of the Member States" to the end substitute "appropriate authority. Nothing in this Regulation prevents the appropriate authority from using any power it has to specify the duties and responsibilities of approved oenologists and technicians.";

(e) in Appendix 4—

(i) in the first subparagraph—

(aa) for "authorities of the Member State in whose territory" substitute "appropriate authority of the constituent nation in which";

(bb) for "Member State", in the second place it occurs, substitute "appropriate authority";

(ii) omit the final subparagraph;

(f) in Appendix 8, for point (7) substitute—

"(7) The oenologist or qualified technician must notify the appropriate authority prior to any treatment.".

(6) In Part B—

(a) in section A (the sulphur dioxide content of wines)—

(i) in point 2, for points (c) to (e) substitute—

"(c) 300 milligrams per litre for wine with a sugar content of more than 45 g/l.";

(ii) omit point 3;

(iii) in point 4—

(aa) in the first sentence, for "Member States" substitute "the appropriate authority";

(bb) in the second sentence, for the words from "Member States" to "the Commission" substitute "The appropriate authority shall, within one month of the grant of a derogation, notify the other appropriate authorities of the derogation granted";

(cc) for the final sentence, substitute "The appropriate authority concerned must then publish the derogation on the gov.uk website.";

(iv) in point 5—

(aa) for "Member States may" substitute "Nothing in this Regulation prevents the appropriate authority from using any power it has to";

(bb) for "their" substitute "its";

(b) in section C (the sulphur dioxide content of sparkling wines), in point 2—

(i) for "certain wine-growing areas of the Union, the Member States" substitute "a constituent nation, the appropriate authority";

(ii) for "the Member State in question" substitute "Great Britain".

(7) In Part C—

(a) in point 2—

(i) in point (a), for "the Union" substitute "Great Britain";

(ii) in point (b), for "the Union" substitute "Great Britain";

(b) in point 3—

(i) in the words before point (a), for "Member States may" substitute "Nothing in this Regulation prevents the appropriate authority from using any power it has to";

(ii) omit the final subparagraph (following point (b)).

(8) In Part D—

(a) in point 2, in both places, for "the Union" substitute "Great Britain";

(b) in point 3, for "be authorised by a Member State only" substitute "only take place".

(9) Annex 2 is amended in accordance with paragraphs (10) to (12).

(10) In Section A, in point 4—

(a) in the words before point (a)—

(i) for "each Member State may" substitute "nothing in this Regulation prevents the appropriate authority from using any power it has";

(ii) before "authorise" insert "to";

(b) for point (d) substitute—

"(d) the enrichment does not exceed 3 % vol. for a cuvée; and".

(11) In Section B—

(a) in point 2—

(i) for "Producer Member States may" substitute "Nothing in this Regulation prevents the appropriate authority from using any power it has to";

(ii) for "their" substitute "its";

(b) in point 4(a), omit the final sentence.

(12) In Section C—

(a) in point 1—

(i) omit the first indent;

(ii) in the second indent, omit "in other wine-growing zones";

(b) omit point 2;

(c) in point 9(a), omit the final sentence.

(13) Annex 3 is amended in accordance with paragraphs (14) and (15).

(14) In Section A—

(a) in point 2(a), omit the "and" at the end;

(b) omit point 2(b);

(c) in point 3, for "which the Member States may adopt" substitute "adopted by the constituent nations";

(d) in point 4—

(i) in point (a), omit the second and third indents;

(ii) omit point (c).

(15) Omit Section B and Appendices 1 to 3.

Amendment of Commission Implementing Regulation (EU) 2019/935

11. In the Annex to Commission Implementing Regulation (EU) 2019/935(**a**) laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards analysis methods for determining the physical, chemical and organoleptic characteristics of grapevine products and notifications of Member States decisions concerning increases in natural alcoholic strength, in the heading omit "Union".

(**a**) EUR 2019/935, as amended by S.I. 2020/1637.

Name
Parliamentary Under Secretary of State
Date Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) and (g)) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of food composition and labelling.

Part 2 amends the following instruments: the Food Information Regulations 2014 (S.I. 2014/1855), the Country of Origin of Certain Meats (England) Regulations 2015 (S.I. 2015/518), the Honey (England) Regulations 2015 (S.I. 2015/1348) and the Caseins and Caseinates (England) Regulations 2017 (S.I. 2017/848). In particular, the amendments to these instruments insert transitional provisions under which authorised officers must not serve improvement notices in relation to certain failures or contraventions for products placed on the market within the period of 21 months beginning with the day on which IP completion day falls.

Part 3 contains operability amendments to certain retained direct EU legislation, in particular in relation to food information and country of origin information and labelling in relation to fresh, chilled and frozen meat of swine, sheep, goats and poultry and in relation to wine. This Part also contains certain amendments about technical matters in relation to wine production.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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