

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

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

AGRICULTURE, WALES

FOOD, WALES

The Food (Miscellaneous
Amendments) (Wales) (EU Exit)
(No. 2) Regulations 2019

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 make amendments to subordinate legislation applying in Wales in the field of food and feed hygiene and safety, food and feed regulated products, and food standards and labelling.

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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Made

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

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).

In accordance with paragraph 1(8) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales.

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

(1) 2018 c.16.

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

Title, application and commencement

1.—(1) The title of these Regulations is the Food (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on exit day.

The General Food Regulations 2004

2. In regulation 4(a) of the General Food Regulations 2004⁽²⁾, for “European Union” substitute “United Kingdom”.

The Food Hygiene (Wales) Regulations 2006

3.—(1) The Food Hygiene (Wales) Regulations 2006⁽³⁾ are amended as follows.

(2) In Schedule 2, in the table—

(a) in the entry for Article 6(1) of Regulation 852/2004, in the second column, for “other applicable EU legislation or national law” substitute “United Kingdom law”;

(b) in the entry for Article 4(1) of Regulation 853/2004, in the second column, omit “manufactured in the European Union”;

(c) omit the entry for Article 8 of Regulation 853/2004.

(3) In Schedule 3, in paragraph 10, for “one or more Community languages” substitute “English, or in English and in Welsh”.

The Fishery Products (Official Controls Charges) (Wales) Regulations 2007

4.—(1) The Fishery Products (Official Controls Charges) (Wales) Regulations 2007⁽⁴⁾ are amended as follows.

(2) In regulation 2(1), in the definition of “third country”, for “any country or territory, other than

(1) OJ No. L 31, 1.2.2002, p.1, to which there are amendments not relevant to these Regulations.

(2) S.I. 2004/3279, amended by S.I. 2005/3254 (W. 247) and S.I. 2011/1043; there are other amending instruments but none is relevant to these Regulations.

(3) S.I. 2006/31 (W. 5), amended by S.I. 2011/1043 and S.I. 2016/845 (W. 214); there are other amending instruments but none is relevant to these Regulations.

(4) S.I. 2007/3462 (W. 307), amended by S.I. 2011/1043; there is another amending instrument but it is not relevant to these Regulations.

Greenland, which does not comprise the whole or part of an EEA State” substitute “a country or state other than the United Kingdom”.

(3) For regulation 4 substitute—

“4. Any reference in these Regulations to a specified number of Euros is to be read as that sum converted into pounds sterling using the exchange rate of GBP1 = EUR1.1413.”

The Official Feed and Food Controls (Wales) Regulations 2009

5.—(1) The Official Feed and Food Controls (Wales) Regulations 2009(1) are amended as follows.

(2) In Schedule 4, for the Table substitute—

<i>“Column 1 Competent Authority</i>	<i>Column 2 Provisions of Regulation 882/2004</i>
The Agency	Articles 3(6), 4(2) to (6), 5(1) to (3), 6, 7, 8(1) and (3), 9, 10, 11(1) to (3) and (5) to (7), 12, 19(1) and (2), 24, 27, 28, 31(1) and (2)(f), and 54
The feed authority	Articles 3(6), 4(2) to (6), 5(1) to (3), 6, 7, 8(1) and (3), 9, 10, 11(1) to (3) and (5) to (7), 15(1) to (4), 16(1) and (2), 18, 19(1) and (2), 20, 21, 22, 24, 27, 28, 31, and 54”.

(3) In Schedule 5, for the Table substitute—

<i>“Column 1 Competent Authority</i>	<i>Column 2 Provisions of Regulation 882/2004</i>
The Agency	Articles 3(6), 4(2) to (6), 5(1) to (3), 6, 7, 8(1) and (3), 9, 10, 11(1) to (3) and (5) to (7), 12, 14, 19(1) and (2), 24, 27, 28, 31, and 54
The food authority	Articles 3(6), 4(2) to (6), 5(1) to (3), 6, 7, 8(1) and (3), 9, 10, 11(1) to (3) and (5) to

(1) S.I. 2009/3376 (W. 298), amended by S.I. 2011/1043; there are other amending instruments but none is relevant to these Regulations.

(7), 15(1) to (4), 16(1) and (2), 18, 19(1) and (2), 20, 21, 22, 24, 27, 28, 31, and 54”.

(4) In Schedule 6, for the first entry in Column 2 of the Table substitute—

“Requirement that feed and food business operators or their representatives give adequate prior notification of the estimated date and time of physical arrival of the consignment at the designated point of entry and of the nature of the consignment in the manner indicated in that Article (common entry document to be completed and transmitted at least one working day in advance) and Article 7 (common entry document to be drawn up in English, or in English and Welsh).”

The Materials and Articles in Contact with Food (Wales) Regulations 2012

6.—(1) The Materials and Articles in Contact with Food (Wales) Regulations 2012(1) are amended as follows.

- (2) In regulation 4(3), omit “Community”.
- (3) In regulation 6(1)—
 - (a) omit sub-paragraph (a);
 - (b) in sub-paragraph (b), for “16(1)” substitute “16”.

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

7.—(1) The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013(2) are amended as follows.

- (2) Omit regulation 15.
- (3) In Schedule 1—
 - (a) in Table 1, in the entry for Article 26.1, in the second column, for “Commission” substitute “Authority”;
 - (b) in Table 2—
 - (i) in the entry for Article 21.1 (as read with Article 22), in the second column, for “a language easily understandable to purchasers” substitute “English, or in English and Welsh”;

(1) S.I. 2012/2705 (W. 291), to which there are amendments not relevant to these Regulations.

(2) S.I. 2013/2591 (W. 255), to which there are amendments not relevant to these Regulations.

- (c) in the entry for Article 26.2, in the second column, for “Commission” substitute “Authority”.
- (4) In Schedule 2, in Table 1—
 - (a) in the entry for Article 10, in the second column, for “Union” substitute “domestic”;
 - (b) in the entry for Article 19.2, in the second column, for “Commission” substitute “Authority”;
 - (c) in the entry for Article 19.3, in the second column, for “Commission” substitute “Authority”.
- (5) In Schedule 3, in Table 1, in the entry for Article 9.5, in the second column, for “Commission” substitute “Authority”.
- (6) In Schedule 4, in Table 1—
 - (a) in the entry for Article 4, in the second column, for “Union” substitute “domestic”;
 - (b) in the entry for Article 14.1, in the second column, for “Commission” substitute “Authority”;
 - (c) in the entry for Article 14.2, in the second column, for “Commission” substitute “Authority”.

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015

8.—(1) The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015⁽¹⁾ are amended as follows.

- (2) In regulation 2—
 - (a) in paragraph (1)—
 - (i) omit the definition of “Directive 2003/40”;
 - (ii) at the appropriate place, insert—

““relevant bottled water legislation” (*“deddfwriaeth berthnasol ynghylch dŵr wedi’i botelu”*) means—

 - (a) in relation to England, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007⁽²⁾;
 - (b) in relation to Northern Ireland, the Natural Mineral Water, Spring Water

(1) S.I. 2015/1867 (W. 274), amended by S.I. 2017/935 (W. 229).

(2) S.I. 2007/2785. Relevant amending instruments are S.I. 2009/1598, S.I. 2010/433, S.I. 2011/451, S.I. 2014/1855 and S.I. 2018/352.

- and Bottled Drinking Water (Northern Ireland) Regulations 2015(1);
- (c) in relation to Scotland, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007(2);”;
- (iii) at the appropriate place, insert—
- ““third country” (*trydedd wlad*) 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.”;
- (b) in paragraph (3), omit “Directive 2003/40,”.
- (3) In regulation 3(1)—
- (a) in sub-paragraph (a), for the words from “Directive” to the end substitute “regulation 2(1) of the Human Medicines Regulations 2012(3)”;
- (b) in sub-paragraph (d), for “country other than an EEA State” substitute “third country”.
- (4) In regulation 4—
- (a) in paragraph (2)—
- (i) in sub-paragraph (b), for “pursuant to Directive 2009/54” substitute “under the relevant bottled water legislation”;
- (ii) omit sub-paragraph (c);
- (iii) in sub-paragraph (d)—
- (aa) in the words before paragraph (i), for “country other than an EEA State” substitute “third country”;
- (bb) for paragraph (ii) substitute—
- “(ii) it has an equivalent recognition given by a responsible authority of another part of the United Kingdom.”;
- (b) omit paragraph (3).
- (5) After regulation 4 insert—

“Transitional provision: withdrawal from the EEA and the EU

4A.—(1) The following waters are accredited, that is to say treated for the purposes of these Regulations as if they were natural mineral

(1) S.R. 2015/365. Amended by S.R. 2017/201.
(2) S.S.I. 2007/483. Relevant amending instruments are S.S.I. 2009/273, S.S.I. 2010/89, S.I. 2011/1043.
(3) S.I. 2012/1916.

waters recognised by the Agency under regulation 4(2)(d)(i)—

- (a) established EU recognised natural mineral waters;
- (b) established Icelandic recognised natural mineral waters;
- (c) established Norwegian recognised natural mineral waters.

(2) The accreditation in paragraph (1) continues to have effect in relation to a natural mineral water to which sub-paragraph (a), (b) or (c) of that paragraph applies until the relevant accreditation cessation date.

(3) In the case of an established EU recognised natural mineral water, if the Welsh Ministers are of the opinion that there is at least one established recognised UK mineral water that is not treated by the responsible authority in at least one member State as a recognised mineral water for the purposes of Directive 2009/54/EC⁽¹⁾, the Welsh Ministers may notify the Commission that the accreditation provided for in paragraph (1)(a) in relation to established EU recognised natural mineral waters is to cease.

(4) In the case of an established Icelandic recognised natural mineral water, if the Welsh Ministers are of the opinion that there is at least one established recognised UK mineral water that is not treated as a recognised mineral water in Iceland for the purposes of Directive 2009/54/EC, the Welsh Ministers may notify the Icelandic Food and Veterinary Authority that the accreditation provided for in paragraph (1)(b) in relation to established Icelandic recognised natural mineral waters is to cease.

(5) In the case of an established Norwegian recognised natural mineral water, if the Welsh Ministers are of the opinion that there is at least one established recognised UK mineral water that is not treated in Norway as a recognised mineral water for the purposes of Directive 2009/54/EC, the Welsh Ministers may notify the Norwegian Food Safety Authority that the accreditation provided for in paragraph (1)(c) in relation to established Norwegian recognised natural mineral waters is to cease.

(6) No notification may be given under paragraph (3), (4) or (5) before the end of the period of 6 months beginning on the day on which exit day falls.

(1) OJ No L 164, 26.6.2009, p. 45.

(7) The accreditation cessation date specified in a notification given under paragraph (3), (4) or (5) must be a date that is at least 6 months after the date on which the notification is given, beginning with the day after the day on which that notification is given.

(8) The Welsh Ministers must publish a copy of any notification given under paragraph (3), (4) or (5) in such manner as appears appropriate to the Welsh Ministers in order to bring its effect to the notice of those that the Welsh Ministers consider likely to be, or representative of those likely to be, affected in Wales as soon as is reasonably practicable.

(9) The Welsh Ministers must from time to time publish, in such manner as appears appropriate to the Welsh Ministers, a list of the names of the established EU, Icelandic and Norwegian recognised natural mineral waters that are treated as accredited natural mineral waters under paragraph (1) (“the paragraph 9 list”).

(10) Where a notification is given under paragraph (3), (4) or (5), the Welsh Ministers must update the paragraph 9 list as soon as reasonably practicable after the accreditation cessation date specified in the notification.

(11) The paragraph 9 list is to be treated as conclusive evidence that the waters are accredited natural mineral waters for the purposes of these Regulations.

(12) In this regulation—

“accreditation cessation date” (*“dyddiad y daw’r achrediad i ben”*) means the cessation date as notified by the Welsh Ministers under paragraph (3), (4) or (5);

“Directive 2009/54/EC” (*“Cyfarwyddeb 2009/54/EC”*) means Directive 2009/54/EC as incorporated into the EEA agreement, and as it had effect, immediately before exit day;

“established EU recognised natural mineral water” (*“dŵr mwynol naturiol sefydledig a gydnabyddir yn yr UE”*) means—

- (a) a natural mineral water extracted from the ground in any member State—
 - (i) that immediately before exit day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and
 - (ii) for which that recognition remains in force;

(b) a natural mineral water extracted from the ground in a third country—

(i) that immediately before exit day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC having been recognised by any member State as a natural mineral water for the purposes of Directive 2009/54/EC based on a certificate (“Article 1(2) certificate”) of the type referred to in the second subparagraph of Article 1(2) of Directive 2009/54/EC issued by the responsible authority in the country of extraction,

(ii) for which that recognition remains in force, and

(iii) for which the Article 1(2) certificate remains valid;

“established Icelandic recognised natural mineral water” (*“dŵr mwynol naturiol sefydledig a gydnabyddir yng Ngwlad yr Iá”*) means a natural mineral water extracted from the ground in Iceland—

(a) that immediately before exit day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and

(b) for which that recognition remains in force;

“established Norwegian recognised natural mineral water” (*“dŵr mwynol naturiol sefydledig a gydnabyddir yn Norwy”*) means a natural mineral water extracted from the ground in Norway—

(a) that immediately before exit day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and

(b) for which that recognition remains in force;

“established recognised UK natural mineral water” (*“dŵr mwynol naturiol sefydledig a gydnabyddir yn y DU”*) means a natural mineral water extracted from the ground in the United Kingdom—

(a) that immediately before exit day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and

(b) for which that recognition remains in force;

“member State” (*“Aelod-wladwriaeth”*) means a member State of the EU as constituted immediately after exit day;

“third country” (*“trydedd wlad”*) has the same meaning as in Directive 2009/54/EC.”

(6) In regulation 24(1)(a), omit “satisfies the requirements of Directive 98/83 and in particular”.

(7) In regulation 27A—

(a) in paragraph (b), omit “or from another EEA State”;

(b) in paragraph (c)—

(i) for “country other than an EEA State” substitute “third country”;

(ii) omit “or in another EEA State”.

(8) In regulation 27B—

(a) in paragraph (b)—

(i) omit “or from another EEA State”;

(ii) for the words from “as complying” to “as implemented” substitute “under the relevant bottled water legislation applying”;

(iii) omit “or that EEA State”;

(b) in paragraph (c)—

(i) for “country other than an EEA State” substitute “third country”;

(ii) omit “or in another EEA State”;

(iii) for the words from “Article 5” to “spring water” substitute “the relevant bottled water legislation that applies in that part of the United Kingdom”.

(9) Omit regulation 33(4).

(10) In regulation 36(1)(b), for “country other than an EEA State” substitute “third country”.

(11) In Schedule 1—

(a) in paragraph 1, in the words before subparagraph (a), omit “for the purposes of Article 1 of Directive 2009/54”;

(b) in Part 2, in the heading, for “country other than an EEA State” substitute “third country”;

(c) in paragraph 5, in the words before subparagraph (a)—

(i) for “country other than an EEA State” substitute “third country”;

(ii) omit “for the purposes of Article 1 of Directive 2009/54”.

(12) In Schedule 10, in paragraph 1(1), omit “with Annex III to Directive 98/83 and”.

(13) In Schedule 11, in paragraph 1, omit “Annex III to Directive 2013/51 and”.

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

9.—(1) The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016⁽¹⁾ are amended as follows.

(2) In regulation 7(2)—

- (a) in sub-paragraph (a), omit the words from “, as read” to the end;
- (b) in sub-paragraph (c), for “Commission” substitute “Food Safety Authority”.

(3) In regulation 10(2)(d), for “Commission” substitute “Food Safety Authority”.

(4) In regulation 13(2)—

- (a) omit sub-paragraph (a);
- (b) in sub-paragraph (b), for “Commission” substitute “appropriate authority”.

(5) For Schedule 1, substitute the new Schedule 1 set out in the Schedule to these Regulations.

The Novel Foods (Wales) Regulations 2017

10.—(1) The Novel Foods (Wales) Regulations 2017⁽²⁾ are amended as follows.

(2) In Schedule 1, in the table—

- (a) in the entry for Article 6(2) as read with Articles 24 and 35(2), in the second column, omit “Union”;
- (b) in the entry for Article 25, in the second column, for “European Commission” substitute “Food Safety Authority”.

Vaughan Gething

Minister for Health and Social Services, one of the
Welsh Ministers

Date

(1) S.I. 2016/386 (W. 120), to which there are amendments not relevant to these Regulations.

(2) S.I. 2017/1103 (W. 279).

SCHEDULE

Regulation 9(5)

Schedule to be substituted for Schedule 1 to the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016

“Schedule 1 Regulation 12

Specified Provisions of Regulation 767/2009

<i>Specified provision</i>	<i>Subject matter</i>
Article 4(1) and (2), as read with Article 4(3) and Annex 1 Article 5(1)	General safety and other requirements to be met when feed is placed on the market or used. Extension of requirements in relation to feed for food-producing animals in other legislation to apply to feed for non food-producing animals.
Article 5(2), as read with Article 12(1), (2) and (3)	Obligation on person responsible for labelling to make information available to competent authority.
Article 6(1), as read with Annex 3	Prohibition or restriction on the marketing or use of certain materials for animal nutritional purposes.
Article 8 Article 9	Controls on the levels of additives in feeds. Controls on the marketing of feeds for particular nutritional purposes.
Article 11, as read with Article 12(1), (2) and (3), Annexes 2 and 4 and the Catalogue of feed materials Article 12(4) and (5)	Rules and principles governing the labelling and presentation of feed. Designation of the person responsible for labelling and the obligations and responsibilities of that person.
Article 13(1), as read with Article 12(1), (2) and (3)	General conditions on making a claim about the characteristics or functions of a feed on the labelling or presentation of it.
Article 13(2) and (3), as read with Article 12(1), (2) and (3)	Special conditions applying to claims concerning optimisation of the nutrition and support or protection of the physiological conditions.
Article 14(1) and (2), as read with Article 12(1), (2) and (3)	Requirements for the presentation of the mandatory labelling particulars.
Article 15, as read with Articles 12(1), (2) and (3) and 21 and with Annexes 6 and 7 Article 16, as read with Article 12(1), (2) and (3) and 21 and with Annexes 2 and 5 and the Catalogue of feed materials	General mandatory labelling requirements for feed materials and compound feeds. Specific labelling requirements for feed materials.
Article 17(1) and (2) as read with Articles 12(1), (2) and (3) and 21 and with Annexes 2, 6 and 7	Specific labelling requirements for compound feeds.
Article 18, as read with Article 12(1), (2) and (3)	Additional labelling requirements for feed for particular nutritional purposes (dietetic feeds).
Article 19, as read with Article 12(1), (2) and (3)	Additional labelling requirements for pet food.

Article 20(1) as read with Article 12(1), (2) and (3) and with Annex 8	Additional requirements for labelling of non-compliant feed, such as that containing contaminated materials.
Article 23	Requirements relating to the packaging and sealing of feed materials and compound feeds for placing on the market.
Article 24(2)	Requirement that if the name of a feed material listed in the Catalogue of feed materials is used, all relevant provisions of the Catalogue must be complied with.
Article 24(3)	Obligation on a person who first places on the market a feed material not listed in the Catalogue of feed materials to notify its use.”
