

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.

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

EXITING THE EUROPEAN UNION AGRICULTURE FOOD

The Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019

Made - - - - 2019

Coming into force in accordance with regulation 1

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

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

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 there has been open and transparent public consultation during the preparation of these Regulations.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

Interpretation

2. In these Regulations—

(1) 2018 c. 16.

“Regulation 1635/2006” means [Commission Regulation \(EC\) No. 1635/2006](#) laying down detailed rules for the application of [Council Regulation \(EEC\) No. 737/90](#) on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station;

“Regulation 733/2008” means [Council Regulation \(EC\) No. 733/2008](#) on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station;

“Regulation 2016/6” means Commission Implementing Regulation (EU) 2016/6 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) No. 322/2014.

PART 2

Amendment of retained direct EU legislation

Amendment of Regulation 1635/2006

3. Regulation 1635/2006 is amended as follows.

4. For Article 1, substitute—

“1. Checks on the radiocaesium content referred to in Article 3 of Regulation ([EEC](#)) [No. 737/90](#) of products referred to in Article 1 of the same Regulation, to ensure that the maximum permitted levels laid down by the said Regulation are observed, must be carried out on import into the United Kingdom.

2. Checks must be carried out by sampling in accordance with the following minimum standards—

- (a) without prejudice to paragraph 3(b), the choice of the appropriate authority as to the intensity of controls to be carried out must be made taking account in particular of the degree of contamination of the country of origin, the characteristics of the products in question, the results of the previous checks and the export certificates referred to in Article 3;
- (b) without prejudice to the further measures provided for in Articles 5 and 6 of Regulation ([EEC](#)) [No. 737/90](#), where a product originating in a third country is recorded as exceeding the maximum permitted levels, checks must be intensified for all products of the same type originating in the third country in question.

3. Checks on specific products must be carried out in accordance with the following rules—

- (a) for animals for slaughter, the checks must be carried out without prejudice to the customs rules laid down in [Council Regulation \(EEC\) No. 2913/92](#) and [Commission Regulation \(EEC\) No. 2454/93](#) and to animal health requirements. Clearance of release for free circulation is subject to the presentation of a certificate issued by the competent authorities responsible for controls to the effect that the meat in question has undergone the system of checks and that those checks have shown that the maximum permitted levels have not been exceeded;
- (b) for products listed in Annex 1, originating in third countries listed in Annex 2, documentary checks must be performed on the basis of the duly completed export certificates referred to in Article 3 accompanying each consignment. Each consignment exceeding 10 kg of fresh product or the equivalent thereof must

be subject to systematic sampling and analysis, taking appropriate account of the information contained in the export certificate. These products may only be declared for free circulation in the United Kingdom in such customs offices as may be identified by the appropriate authority from time to time. A list of these customs offices must be published by the appropriate authority.

4. Where failure to comply with the maximum permitted levels is observed in respect of a given product, the appropriate authority may require the imported product to be destroyed or returned to the country of origin. In the latter case, written evidence that the product has left the territory of the United Kingdom must be forwarded to the customs authority which refused the release for free circulation.

5. For the products referred to in paragraph 1 of this Article, the appropriate authority may levy charges on the importer for the sampling and analysis of products for compliance with Regulation (EEC) No. 737/90. For consignments which exceed the maximum permitted levels, the appropriate authority may also recover from their intended importer costs associated with either the destruction of the consignment or its return to the country of origin.”.

5. Omit Article 2.

6. Insert a new Article 2A—
“Article 2A

Definitions

In this Regulation—

- (a) “appropriate authority” means—
 - (i) in relation to England, the Secretary of State;
 - (ii) in relation to Wales, the Welsh Ministers;
 - (iii) in relation to Scotland, the Scottish Ministers; or
 - (iv) in relation to Northern Ireland, the Northern Ireland devolved authority.
- (b) “third country” means a country or state other than the United Kingdom;
- (c) “Northern Ireland devolved authority” means the Department of Health or the Department of Agriculture, Environment and Rural Affairs.”.

7. For Article 3, substitute—

“The appropriate authority must ensure that the export certificates issued by the competent authorities of third countries listed in Annex 2 attest that the products that they accompany comply with the maximum permitted levels laid down in Article 3 of Regulation (EEC) No. 737/90. The export certificates must be compiled using a form printed on white paper in accordance with the specimen in Annex 3.”.

8. After Article 5, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of Regulation 733/2008

9. Regulation 733/2008 is amended as follows.

10. For Article 3, substitute—

“1. The food authority must check compliance with the maximum permitted levels laid down in Article 2(2) in respect of the products referred to in Article 1, taking into account