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STATUTORY INSTRUMENTS

No.

EXITING THE EUROPEAN UNION

FOOD

AGRICULTURE

The Marking of Retail Goods Regulations 2024

Made - - - -

Laid before Parliament

Coming into force - - *1st October 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8C(1) and (2) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

In making these Regulations, the Secretary of State has had special regard to the matters listed in section 46 of the United Kingdom Internal Market Act 2020(b).

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(c).

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Marking of Retail Goods Regulations 2024.
- (2) These Regulations come into force on 1st October 2024.
- (3) These Regulations extend to England and Wales and Scotland.

(a) 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. Further to the 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”.

(b) 2020 c. 27.

(c) EUR 2002/178, to which there are amendments not relevant to these Regulations.

Interpretation

2. In these Regulations—

“dairy products” has the meaning given by Article 2(20) of the SPS Regulation;

“label” means any tag, brand, mark, pictorial or other descriptive matter, which is written, printed, stencilled, marked, embossed or impressed on, or attached to, the packaging of a retail good and which cannot be easily removed;

“meat” has the meaning given by Article 2(21) of the SPS Regulation;

“milk” means the milk of cows, ewes, goats or buffaloes intended for human consumption;

“placed on the market” means the holding of retail goods for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer of those goods;

“prepacked” has the meaning given by Article 2(13) of the SPS Regulation;

“qualifying Northern Ireland goods” has the meaning given to it from time to time in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018;

“retail goods” has the meaning given in regulation 3(4);

“small business” has the meaning given by section 33(2) of the Small Business, Enterprise and Employment Act 2015(a);

“the SPS Regulation” means Regulation (EU) 2023/1231 of the European Parliament and of the Council of 14 June 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(b);

“x-height” has the meaning given by Annex 4 of Regulation EU No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004(c).

“Not for EU” marking requirement

3.—(1) Subject to the exceptions specified in regulation 4—

- (a) on and after 1st October 2024, no person may place prepacked meat, prepacked milk or prepacked dairy products on the market in Great Britain unless each single item bears an individual marking with the words “Not for EU” (“an individual “Not for EU” marking”);
- (b) on and after 1st July 2025, no person may place any other prepacked retail goods on the market in Great Britain unless each single item bears an individual “Not for EU” marking.

(a) 2015 c. 26. Section 33 was amended by section 18 of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28).

(b) OJ No L 165, 29.6.23, p. 103.

(c) EUR 2011/1169.

(2) An individual “Not for EU” marking must be included on the packaging of the retail goods, and that marking—

- (a) must appear in such a way as to be easily visible, clearly legible and indelible;
- (b) must not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material;
- (c) must be printed on the retail goods in characters using a font size where the x-height is equal to or greater than 1.2mm; and
- (d) for retail goods the largest surface of which has an area of less than 80□, the height of the font size referred to in paragraph (c) must be equal to or greater than 0.9mm.

(3) For the purposes of paragraph 2, a label attached to the packaging of a single item is to be treated as part of the packaging of that single item, provided that the label cannot be easily removed from that packaging.

(4) In this regulation, retail goods means—

- (a) goods that fall within the definition of retail goods under Article 2(2) of the SPS Regulation; and
- (b) goods that are not listed in Part 2 of Annex 5 to the SPS Regulation.

Exceptions

4.—(1) Regulation 3 does not apply to the following—

- (a) the placing on the market of prepacked retail goods—
 - (i) by a [small] business;
 - (ii) [local business exception - to be confirmed];
- (b) prepacked retail goods which are qualifying Northern Ireland goods;
- (c) individual goods sold loose or by weight on the sales premises at the consumer’s request, including individual goods processed and sold on the sales premises by a retailer for direct consumption by the consumer;
- (d) individual goods offered by a catering operator, at factory canteens, by institutional catering, by restaurants and by other similar food service operators for direct consumption on the spot;
- (e) [other related exceptions - to be confirmed - see questions 12 to 14 of the consultation].

Enforcement

5. [To be confirmed. See questions 5 to 11 of the consultation].

Transitional provisions

6.—(1) Notwithstanding regulation 3(1)(a), any retail good falling within that paragraph which is placed on the market in Great Britain before 1st October 2024 may continue to be sold until stocks are exhausted.

(2) Notwithstanding regulation 3(1)(b), any retail good falling within that paragraph which is placed on the market in Great Britain before 1st July 2025 may continue to be sold until stocks are exhausted.

(3) [To be confirmed in respect of the enforcement provisions. See questions 12 to 14 of the consultation].