

2019 No. 000

**EXITING THE EUROPEAN UNION, NORTHERN
IRELAND**

FOOD, NORTHERN IRELAND

**The Nutrition (Amendment) (Northern Ireland) (EU Exit)
Regulations 2019**

<i>Sift requirements satisfied</i>	-	***
<i>Made</i> - - - -	-	***
<i>Laid before Parliament-</i>	-	***
<i>Coming into force in accordance with regulation 1</i>		

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

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate parliamentary procedure for these Regulations) have been satisfied.

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(b).

Citation and commencement

1. These Regulations may be cited as the Nutrition (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 and come into force on exit day.

Amendment of the Medical Food Regulations (Northern Ireland) 2000

2.—(1) The Medical Food Regulations (Northern Ireland) 2000(c) are amended as follows.

(2) In regulation 2 (Interpretation)—

- (a) omit the definition of “member State”;
- (b) renumber regulation 2 as regulation 2(1); and

(a) 2018 c. 16.

(b) OJ No. L31, 1.2.2002, p.1, last amended by Regulation (EU) 2017/745 of the European Parliament and of the Council (OJ No. L 117, 5.5.2017, p. 1).

(c) S.R. 2000 No. 187.

(c) after renumbered regulation 2(1) insert—

“(2) In these Regulations, any reference to compliance with a provision of the Directive is to be read as a reference to complying with that provision as would be required if the provision formed part of domestic law.

(3) For the purposes of these Regulations, Articles 4 to 5 of, and the Annex to, the Directive are to be read subject to the modifications set out in the Schedule to these Regulations.”

(3) After the signature, insert—

“SCHEDULE

Regulation 2(3)

Modifications to the Directive

1. The Directive is modified as follows.

2. Article 4(2) is to be read as if for “Article 3 of Directive 79/112/EEC,” there were substituted “Article 9 of Regulation (EU) No 1169/2011,”.

3. Article 5 is to be read as if—

(a) in paragraph (1)—

(i) for “where a product is manufactured in a third country” there were substituted “where a product is manufactured outside of the United Kingdom”;

(ii) for the first reference to “Member States” there were substituted “territories within the United Kingdom”;

(iii) the words “Member States may, if they can demonstrate that notification is not necessary in order to monitor those products efficiently in their territory, not impose that obligation” were omitted.

(b) in paragraph 2, for “are those referred to in Article 9(4) of Directive 89/398/EEC” there were substituted—

“are—

(a) in respect of England, the Secretary of State,

(b) in respect of Wales, the Welsh Ministers,

(c) in respect of Scotland, Food Standards Scotland(a),

(d) in respect of Northern Ireland, the Food Standards Agency(b).”

4. In the Annex, paragraph 4 is to be read as if for “Directive 91/321/EEC and its subsequent modifications” there were substituted “Directive 2006/141/EC(c).”

Amendment of the Food Supplements Regulations (Northern Ireland) 2003

3.—(1) The Food Supplements Regulations (Northern Ireland) 2003(d) are amended as follows.

(2) In regulation 2 (Interpretation) omit—

(a) the definitions of “Directive 2001/83” and “Directive 2002/46” in paragraph (1); and

(b) paragraphs (3) and (4).

(a) Food Standards Scotland was established by section 1 of the Food (Scotland) Act 2015 (2015 asp 1).

(b) The Food Standards Agency was established by section 1 of the Food Standards Act 1999 (1999 c. 28).

(c) OJ No. L 401, 30.12.2006, p. 1, last amended by Commission Delegated Regulation (EU) 2016/127 (OJ No. L 25, 2.2.2016, p. 1).

(d) S.R. 2003 No. 273 as relevantly amended by S.R. 2005 No. 574, S.R. 2009 No. 407 and S.R. 2014 No. 223.

(3) In regulation 3 (Scope of regulations) in paragraph (2), for “as defined by Directive 2001/83” substitute “as defined by regulation 2(1) of the Human Medicines Regulations 2012(a)”.

(4) In regulation 5 (Prohibitions on sale relating to composition of food supplements)—

(a) in paragraph (1)—

(i) in sub-paragraph (a) for “Annex I to Directive 2002/46” substitute “Schedule 1 to the Nutrition (Amendment) (EU Exit) Regulations 2019”;

(ii) in sub-paragraph (b)(i) for “Annex II to Directive 2002/46” substitute “Schedule 2 to the Nutrition (Amendment) (EU Exit) Regulations 2019”;

(b) in paragraph (2) for sub-paragraph (a) substitute—

“(a) the purity criteria, if any, specified in EU-derived domestic legislation, retained direct EU legislation or in regulations which may be made under regulation 3 of the Nutrition (Amendment) (EU Exit) Regulations 2019; or”.

(5) In regulation 6 (Restrictions on sale relating to labelling etc. of food supplements) in paragraph (3)(b) for “Annex I to Directive 2002/46” substitute “Schedule 1 to the Nutrition (Amendment) (EU Exit) Regulations 2019”.

Amendment of the Kava-kava in Food Regulations (Northern Ireland) 2005

4.—(1) The Kava-kava in Food Regulations (Northern Ireland) 2005(b) are amended as follows.

(2) In regulation 2 (Interpretation) —

(a) omit the definitions of “EEA Agreement”, “EEA State” and “free circulation in member States”;

(b) after the definition of “the Order”, insert—

““third country” means a country other than the United Kingdom”;

(3) In regulation 3 (Prohibition on sale etc of food consisting of or containing Kava-kava), for paragraph (2) substitute—

“(2) The prohibition imposed by paragraph (1) shall not apply where the food consisting of or containing Kava-kava is imported from a third country if the food is being, or is to be, exported to a third country.”.

Amendment of the Addition of Vitamins, Minerals and Other Substances Regulations (Northern Ireland) 2007.

5.—(1) The Addition of Vitamins, Minerals and Other Substances Regulations (Northern Ireland) 2007(c) are amended as follows.

(2) In regulation 4 (Offences and penalties)—

(a) in paragraph (1), omit the words “Subject to the transitional measures contained in Article 18 (relating to foods placed on the market before 1 July 2007),”;

(b) in paragraph (2)(a), omit the words “as read with Article 17(1) (transitional application of national rules)”.

Amendment of the Infant Formula and Follow-on Formula Regulations (Northern Ireland) 2007

6.—(1) The Infant Formula and Follow-on Formula Regulations (Northern Ireland) 2007(d) are amended as follows.

(a) S.I. 2012/1916.
(b) S.R. 2005 No. 288.
(c) S.R. 2007 No. 301.
(d) S.R. 2007 No. 506.

(2) In regulation 2 (Interpretation), after paragraph (6) insert—

“(7) In these Regulations, any reference to compliance with a provision of the Directive is to be read as a reference to complying with that provision as would be required if the provision formed part of domestic law.”.

(3) In regulation 12 (Listed substances and their purity criteria (infant formula and follow-on formula)), in paragraph (3)(a) for “Community legislation” substitute “retained EU law”.

Amendment of the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009

7.—(1) The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009(a) are amended as follows.

(2) In the Schedule, in the “subject matter” column of the table—

- (a) in the entry relating to Article 2(1), for “covered by Directive 2009/39 of the European Parliament and the Council on foodstuffs intended for particular nutritional uses” substitute “(foodstuffs which, owing to their special composition or manufacturing process, are clearly distinguishable from foodstuffs for normal consumption, which are suitable for their claimed nutritional purposes and which are marketed in such a way as to indicate such suitability)”;
- (b) in the entry relating to Article 3(2), for “competent authority referred to in Article 11 of Directive 2009/39” substitute “Secretary of State, Welsh Ministers, Food Standards Scotland or in Northern Ireland, the Food Standards Agency”;
- (c) in the entries relating to Article 4(2) and Article 4(3), for the words from “established by” to “legislation” substitute “established by retained EU law”.

Signed by the authority of the Secretary of State for the Department of Health and Social Care

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c.) 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 in the field of nutrition composition and labelling.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

(a) S.R.2009 No. 398.