



Department
for Environment
Food & Rural Affairs

Food labelling: amending laws

06 November 2018



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Introduction

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Government intervention in food information to consumers is necessary to correct retained EU law that will be incorporated into domestic law by the Withdrawal Act. Amendments are being made so that the law that applies in the UK in relation to food information provided to consumers functions on day one of exiting the European Union.

The Department for Environment, Food and Rural Affairs (Defra) is intending to make the necessary amendments to relevant retained EU legislation, including for the unlikely eventuality of the UK leaving the EU without a deal: the effects of the amendments being made for this specific outcome are set out in this document.

The EU's General Food Law (Article 9 of Regulation 178/2002) also requires the UK Government to consult when it plans to revise food laws. This is a public consultation and it is open to anyone with an interest to provide comments and should be of particular interest to those in the Food and Drink industry.

The proposals would extend and apply to the UK including Scotland, Wales and Northern Ireland. We will continue to work with the Devolved Administrations on areas where common frameworks will need to be retained in the future. This consultation does not pre-empt these discussions.

The deadline for responses is 04th December 2018

Background

Since the EU referendum the UK government has been working to secure a deep and comprehensive economic partnership with the European Union. Alongside this work Defra – like other government departments – has an extensive programme of work focused on preparing for a range of scenarios to make sure we are ready for the point when we leave the EU. Leaving the EU will change things, but on the day we leave food producers and retailers will still be able to trade, and we will maintain our high standards of animal welfare and biosecurity protection.

The UK remains a full member of the European Union until 29 March 2019 and all the rights and obligations of EU membership remain in force. During this period the government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

The European Union (Withdrawal) Act will repeal the European Communities Act 1972 and remove the applicability of EU law over UK law. Not all EU legislation converted to UK law will be fit for purpose and amendments (legal fixes) will be required in order to have a smooth transition and an operable framework on day one of exiting the EU. Whilst

operability is key for the UK, it is important to ensure consumer confidence does not decrease in the process, as it remains one of the UK's highest priorities across the food and drink sector.

Overall, Defra has more than 40 EU Exit projects. The plans for each project prepare the country for both the range of negotiated outcomes, and for the unlikely eventuality of the UK leaving the EU without a deal, for the relevant policy areas affected by the UK leaving the EU.

The plans explained in this consultation would apply in the specific outcome in which the EU and the UK were not to agree a partnership arrangement and common approach to food legislation after the UK leaves the EU.

Summary of consultation

Regulations to which correcting amendments will be made

Simple amendments will be sufficient to enable the provisions contained in the relevant regulations to work after EU exit. These consist of legal fixes for operability e.g. replacing 'Union' with 'UK'; 'Union provisions' with 'EU-derived domestic legislation and retained direct EU legislation' etc. We are not asking for views on these as they would be made only in order to make such minor corrections. Minor amendment will therefore be made to:

- a. Regulation (EU) No. 1169/2011 on the provision of food information to consumers
- b. Commission Implementing Regulation (EU) No. 1337/2013 on the country of origin of certain meats
- c. Commission Regulation (EU) No. 115/2010 on the use of activated alumina for the removal of fluoride from natural mineral waters and spring waters.

Two types of labelling changes will also be required by the fact that the UK will no longer be in the EU and, for the purposes of this consultation, would not have a partnership arrangement and common approach to food legislation. The amendments we plan to make will include provisions that create the legal basis that provides for these labelling changes. These can be summarised as follows:

- a. Existing Article 9.1(h) of 1169/2011 requires the label to show the name and address of the Food Business Operator (FBO) responsible for the information on the food. This is either the Food Business under whose name the food is marketed in the EU if they are established in the EU or, in other cases, the importer into the EU. Currently this can be an address anywhere in the EU, including the UK. The amending regulations change this requirement: prepacked food placed on the UK market will need a UK address for either

the name and address of the operator under whose name the food is marketed in the UK, or, where they are not established in the UK, the name and address of the importer into the UK; an address in the EU alone will no longer be sufficient. This will be relevant to those UK food retailers who currently source part of their range from within the EU, or from 3rd countries via a distributor based in one of the other EU member states. For this reason we intend to consult on an appropriate period of adjustment and transition before this change takes full effect.

This means that after exit, food for sale in the UK will need a name and address of a responsible food business operator within the UK on the label. Separately (and not within the power of the UK government) food exported from the UK into the EU will need to bear an address within the EU.

- b. Existing Article 9.1(i) of 1169/2011 (elaborated by Article 26 and Implementing Regulation 1337/2013) requires the country of origin to be given for certain types and categories of food, and for any pre-packaged food where failure to provide it would lead to consumers being misled. The UK would cease application of EU centric labelling when it is no longer a member state. Currently an origin indicator given as 'EU' can include the UK. Following the UK's exit from the EU this will no longer be factually correct and the UK will need to be demarcated when using origin indicators. The regulations make changes reflecting this reality.

This means that where food originating in the UK is currently labelled using 'EU' as an origin indicator, after EU Exit it will need to change to 'UK'. Specifically in the case of origin indicators used for minced meat, these will no longer refer to 'EU' and 'non-EU' but instead will use 'UK' and 'non-UK'.

An appropriate period of adjustment and transition could be granted, for example, for up to 6 months following the UK's exit from the EU, during which food meeting the requirements prior to leaving the EU (e.g. food with an address in one of the 27 other member states) may continue to be placed on the UK market. This would also assume that food legally placed on the UK market before EU Exit (or before the end of this period of adjustment) may continue to be sold through until stocks of the food are exhausted.

Consultation questions

- 1. How long would be an appropriate transition time to meet the proposed changes to the requirements on the address of the responsible food business indicated on the label? e.g. up to 6 months**
- 2. Are there any points you wish to raise regarding these changes?**

How to respond

We encourage respondents to provide not just their opinions but also the supporting facts and reasoning to inform the evidence base for the development of final proposals. Respondents do not have to answer both the questions and so can choose those of specific interest. Questions which you do not wish to respond to can be left blank.

Please respond by 04th December 2018.

Please respond through the online survey (Citizen Space) accessible via Gov.uk

Responses can also be sent by email Labelling@defra.gsi.gov.uk or by post, specifying which question(s) you are responding to:

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This consultation is in line with the government's Consultation Principles. This can be found at www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance.

Consultation results

Once the consultation has been closed, all responses will be considered and a summary of responses and Defra's comments on those responses will be provided on GOV.UK.

Results will be available for viewing on 7th February 2019.