

REGULATORY APPRAISAL

FOOD, WALES

THE FOOD SAFETY (GENERAL FOOD HYGIENE) (AMENDMENT) (WALES) REGULATIONS 2005

Background

1. Council Directive 2004/4/EC amends Council Directive 96/3/EC granting derogation from certain provisions of Council Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport of bulk liquid oils and fats by sea.
2. Directive 96/3/EC sets out the EC list of acceptable substances that can be carried prior to transporting edible fats and oils by sea. Following evaluations carried out by the Scientific Committee on Food an updated list is presented in Directive 2004/4/EC, which was adopted on 15 January 2004. This Directive replaces Council Directive 96/3/EC on 1 June 2004.

Purpose and Intended Effect of the Measures

3. These Regulations accurately transpose Directive 2004/4/EC. Existing legislation in the UK, Chapter IV of Schedule 1 to the Food Safety (General Food Hygiene) Regulations 1995 (as amended) requires that the bulk transport in sea-going vessels of liquid oils or fats intended for human consumption should only be permitted in tanks if previous cargoes transported in those tanks are from the “list of acceptable previous cargoes for liquid oils or fats” as defined in regulation 2(1) of those Regulations. The new Directive amends the existing list of approximately 90 substances by 5 on the basis of an assessment by the EC Scientific Committee on Food.

Risk Assessment

4. The changes set out, amend the list of substances which can be transported by sea on the basis of an assessment by the EC Scientific Committee on Food.

Devolution

5. The Regulations will apply in Wales only. Separate but parallel Regulations has been made in England, Scotland, and Northern Ireland.

Options

6. These Regulations implement an EC Directive. There is no reasonable alternative to introducing the proposed amending regulations since failure to do so could lead to criticism. Non-implementation would also lead to undoubtedly successful legal proceedings against the UK in the European Court of Justice, as the terms of both measures require the implementation of all their provisions. The costs of non-implementation would include the costs of infraction proceedings to the UK Government as well as any financial penalties imposed. Therefore the non-implementation of these measures is not an option.

Benefits

Social

7. There would appear to be no identifiable social benefits or disadvantages arising from either the non-implementation or the full implementation of 2004/4/EC.

Economic

8. There would appear to be no identifiable economic benefits or disadvantages arising from either the non-implementation or the full implementation of 2004/4/EC.

Environmental

9. There would appear to be no identifiable environmental benefits or disadvantages arising from either the non-implementation or the full implementation of 2004/4/EC.

Compliance Costs for Business, Charities and Voluntary Organisations

10. The new Regulations will apply to those businesses engaged in the bulk transport of edible fats and oils into the EU. As the list referred to in the Regulations is an amendment to an existing EC list of acceptable previous cargoes, the proposed measure will impact equally across all transporters of fats and oils intended for human consumption. Enforcers do not acquire any additional burdens from these proposals.

Financial Implications for Wales

11. The new Regulations will apply to those businesses engaged in the bulk transport of edible fats and oils into the EU. As the list referred to in the Regulations is an amendment to an existing EC list of acceptable previous cargoes, the proposed measure will impact equally across all transporters of fats and oils intended for human consumption. Enforcement of this legislation is the responsibility of Local Authority Public Protection Departments in Wales. Enforcers do not acquire any additional burdens from these proposals.

12. The public consultation exercise invited comments on any additional costs envisaged in implementing the Regulation. The Food Standards Agency in its consultation throughout the UK suggested that there would be no financial impact on business arising from the proposed legislation. No comments were forthcoming from the Local Authorities Co-ordinators of Regulatory Services (LACORS) (the co-ordinating body for local authority trading standards departments in England and Wales) or the Welsh Local Government Association. No additional costs to local authorities or the Assembly have been identified either.

Other Costs

13. No other costs have been identified.

Equality and Fairness

14. The new Regulations will apply to those businesses engaged in the bulk transport of edible fats and oils into the EU. As the list referred to in the Regulations is an amendment to an existing EC list of acceptable previous cargoes, the proposed measure will impact equally across all transporters of fats and oils intended for human consumption.

Enforcement and Sanctions

15. Enforcement of the food additives legislation is the responsibility of Local Authority Public Protection Departments in Great Britain and the Department of Agriculture and Rural Development in Northern Ireland.

Monitoring and Review

16. The Food Standards Agency will consider proposals from stakeholders for any further changes to the rules that they consider necessary in the light of experience, and the effectiveness, of the new legislation.

Consultation

Public Consultation

17. The Food Standards Agency Wales carried out a consultation from 29 March to 11 June 2004. Stakeholders included Assembly Members, consumer and industry representative bodies (a full list of consultees is at annex A). They were invited to comment on the draft Regulations and any costs associated with the implementation of the Regulations. No comments were received. Parallel consultations were carried out in England, Scotland and Northern Ireland and did not attract comments from stakeholders. Therefore, no policy changes to the draft Regulations were identified as a consequence of the public consultation.

With Subject Committee

18. There has been no prior scrutiny of the proposed Instrument by the Health and Social Services Committee. However, the Instrument has been notified to the Committee via the list of forthcoming legislation, put to the Committee on 5 May 2004 (HSS(2)-06-04(p.7b) item: FSA No. 09(04)) on the Food Standards Agency schedule) and in successive meetings but was not identified for scrutiny.

Consultation with Small Businesses (The Small Firms Impact Test)

19. The Federation of Small Businesses stakeholders were included in the consultation on the draft Regulations but did not respond.

Summary and Recommendations

20. The Food Standards Agency believes that the full implementation of the proposals into the Food Safety (General Food Hygiene) (Wales) Regulations 2005 will provide essential consumer health protection. Support for the adoption of these proposals is recommended.

21. The Food Standards Agency will consider any comment organisations or individuals may make in the light of experience of the amendments to the existing regulations.

Contact Point

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ANNEX A

LIST OF CONSULTEES

Contact	Company Name
A J Craske	Abergavenny Fine Foods
Cate Barrow - Food Business Development Manager	ADAS Wales
Paul Lenartowicz - Vice President	The Association of Public Analysts
Mr Mark Dukes	Bar and Restaurant Foods Ltd
Colin Hunt	Biotrace Limited
Ms A Gabe	Carmarthenshire County Council
Ceri J Baillie	Clark's Original Pies
Wendy Cave	Co-operative Group (CWS) Ltd
Mr Arwyn Owen, Director of Policy	Farmers' Union of Wales
Lynn Hoskins	Food Quality Panel
Mr R Dailley	Food Safe
The Secretary	G C Hahn & Co Ltd
Mr K F Powell	Good Food Distributors
Elizabeth Williams	Halo Foods Ltd
Peter Lee	Iceland Frozen Foods
Ms Susan Perkins	LACORS (Welsh Officer)
Mrs Brenda Davies	Meridian Foods
Mrs Mary James	National Farmers Union (Wales)
David Jackson	Peters Food Service Ltd
Joanna Tett	Rachel's Dairy
Mr J Frow	RCT Trading Standards Dept
R A Ennion	Ruddock & Sherratt
Professor G Coleman	School of Environmental Sciences
Mr Lester Lewis	Society of Directors of Public Protection
Kevin P Jones, Panel Chairman	Society of Directors of Public Protection - North Wales
Steve Delahaye, Secretary	Society of Directors of Public Protection Wales - Trading Standards Group
Mr P Chaplin	T/A Source Foods
Mr Gareth Rowlands	The Organic Working Group
Chris Price-Jones	The Speciality Sauce Co. Ltd
Mr T B Dickens	Tillery Valley Foods Ltd
Eurwyn Harries	Tovali Ltd
Lowri Jones	Wales Young Farmers' Club
Viv Sugar, Chair	Welsh Consumer Council
Mr Paul Handby, Development Co-ordinator	Chartered Institute of Environmental Health in Wales
Mr Norman Biggs	Welsh Food Laboratories
Mrs Ceri Edwards, Secretary	Welsh Food Microbiological Forum
Mr Wynfford James, Director	WDA Food Directorate
Gerry Devine	Zorba Foods
Charles Stevens	PRP Training Ltd
Ffion Roberts, Public Protection Manager	Gwynedd CC
Mr Richard Wood	British Retail Consortium
Professor James Parry	Member - Welsh Food Advisory Committee
Dr Robert Bell	Member - Welsh Food Advisory Committee
Mrs Dilwen Phillips	Member - Welsh Food Advisory Committee
Mrs Gilli Davies	Member - Welsh Food Advisory Committee
Professor Robert Pickard	Member - Welsh Food Advisory Committee
Professor SM Griffiths	Member - Welsh Food Advisory Committee

Dr David Casemore	Member - Welsh Food Advisory Committee
David Hill	Kwik Save Group Ltd
Mr Sandy Blair	Welsh Local Government Association
Brian Davies, Principal EHO	Ceredigion County Council
David Hughes, Chief Public Protection Officer	Blaenau Gwent CBC
Malcolm Evans,	Cardiff County Council
Mr Mathew Frankcom, Principal Food Safety Officer	Conwy County Borough Council
A Jenkins, Director of Consumer Services	Neath Port Talbot CBC
Stephen Davison	Newport CBC
CJ Taylor, Head of Public Protection	Powys CC
Mrs Reena Owen, Director of Environment	City and County of Swansea
Mr S J Whitehouse, Env Management Dept	Torfaen CBC
Philip Walton, Director of Environmental Services	Wrexham CBC
Sue Redding, Head of Trading Law	Sainsbury's Supermarkets Limited
Dr Donald Ribeiro	PHLS in Wales
Mr Trevor Jones	Conwy Mussel Company
Sylvia Portbury, Food Safety Manager	Flintshire County Council
Mr David Smith	Member - Welsh Food Advisory Committee
Allan Bennett, Head of Public Protection	Pembrokeshire County Council
Norman Gatehouse, Chief Environmental Health Officer	Caerphilly CBC
David Dier, Head of Public Health	Merthyr Tydfil CBC
Jean Sullivan	Welsh Food Alliance
Graham Gubb, Env Health Officer	Bridgend County Borough Council
T E Johnson	Minton, Treharne & Davies Ltd
Mr M Williams	Cardiff Scientific Services
Julie Barratt, Director	Chartered Institute of Environmental Health in Wales