

Explanatory Memorandum to The Food Information (Amendment of Transitional Provisions) (Wales) Regulations 2022

This Explanatory Memorandum has been prepared by the Food Standards Agency and the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Ministers' Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Food Information (Amendment of Transitional Provisions) (Wales) Regulations 2022.

Lynne Neagle MS
Deputy Minister for Mental Health and Wellbeing

7 September 2022

PART 1

1. Description

- 1.1 The Food Information (Amendment of Transitional Provisions) (Wales) Regulations 2022 (the '**Regulations**') will extend the transitional period for specific food labelling changes resulting from EU Exit for an additional 15 months. The Regulations will amend Welsh domestic legislation and retained EU law as it applies in Wales.
- 1.2 The existing transition period for these food labelling changes ends on 30 September 2022. The Regulations will extend the end of the transition period to (and including) 31 December 2023.
- 1.3 As a consequence, the requirement and enforcement of specific labelling changes relating to EU exit will apply from 1 January 2024.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

3. Legislative background

- 3.1 The Food Safety Act 1990 (s.16) (FSA 1990) provides broad powers to Welsh Ministers to make regulations for imposing requirements or prohibitions, and otherwise regulating, the labelling of food, which includes powers to make consequential or transitional provisions.
- 3.2 The Welsh Ministers make the Regulations in exercise of powers conferred by sections 16(1)(a) and (e) and 48(1)(c) of the FSA 1990. Functions of the "Secretary of State" under the FSA 1990 were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and are now exercisable by the Welsh Ministers (in relation to Wales) by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- 3.3 The Regulations also amend retained direct minor EU legislation (as defined in section 7(6) of the European Union (Withdrawal) Act 2018 (c.16) (EUWA 2018)). The powers in the FSA 1990, when read with paragraph 5 of Schedule 8 to EUWA 2018, allow for modifications to be made to retained direct minor EU legislation. "Modify" is defined in section 20(1) of EUWA 2018 and includes "amend, repeal or revoke".
- 3.4 The Regulations are subject to the negative resolution procedure and will come into force 21 days after the day on which they are laid.

4. Purpose and intended effect of the legislation

- 4.1 The Regulations will extend the period businesses have to make specific labelling changes resulting from EU exit. The effect will be that certain EU labelling terms and EU addresses will be permitted on the market in Wales for an additional 15 months.
- 4.2 The extension of transitional provisions will give businesses a further 15 months to comply with labelling rules that no longer allow EU labelling terms and EU addresses.
- 4.3 The specific effects are:
- Food Business Operator (FBO) Addresses: an extension of the transitional provisions effected by this SI means that businesses can continue to use an EU, GB or NI address for the FBO on pre-packaged food or caseins sold in Wales until (and including) 31 December 2023.
 - Identification marks: an extension of the transitional provisions effected by this SI means that businesses can continue to use “UK/EC” identification marks, until (and including) 31 December 2023. This is for Products Of Animal Origin (POAO) placed on the market in Wales. It is not applicable to POAO produced in the UK for placing on the EU, Northern Ireland or non-EU markets.
 - Beef and veal labelling: an extension of the transitional provisions effected by this SI means that for beef and veal sold in Wales, businesses can refer to ‘non EU’ if the animal the beef or veal came from was born, reared or slaughtered outside of the EU and the business does not have the full individual country information, until (and including) 31 December 2023.
 - Minced meat labelling (goat, sheep, swine and poultry): an extension of the transitional provisions effected by this SI means that, for minced meat sold in Wales, businesses can continue to refer to ‘EU’ and ‘non-EU’ when the label does not list each country of origin until (and including) 31 December 2023.
 - Honey blends labelling: an extension of the transitional provisions effected by this SI means that, for honey blends sold in Wales, businesses can continue to use the EU-centric origin wording until (and including) 31 December 2023. This means businesses can use one of the following:
 - ‘blend of honeys from more than one country’ (or similar wording)
 - ‘blend of EU honeys’
 - ‘blend of non-EU honeys’
 - ‘blend of EU and non-EU honeys’
 - Olive oil labelling: an extension of the transitional provisions effected by this SI means that for olive oil blends sold in Wales businesses can continue to refer to ‘EU’ and ‘non-EU’ when the label does not list each country of origin until (and including) 31 December 2023.
 - Fruit and vegetable labelling: an extension of the transitional provisions effected by this SI means that for mixes of fruit and

vegetables sold in Wales businesses can continue to refer to 'EU' and 'non-EU' until (and including) 31 December 2023.

- Egg labelling: an extension of the transitional provisions effected by this SI means that businesses can continue to mark eggs that do not meet domestic egg trade regulations as 'non-EC standard' or 'non-UK standard' until (and including) 31 December 2023.
- Wine: an extension of the transitional provisions effected by this SI means that, for wine sold in Wales, businesses can continue to use the EU importer or bottler's details until (and including) 31 December 2023.
- Quick frozen foods: an extension of the transitional provisions effected by this SI means that, for quick-frozen foodstuffs sold in Wales, businesses can continue to use an EU address until (and including) 31 December 2023.
- Extraction solvents: an extension of the transitional provisions effected by this SI means that, for extraction solvents sold in Wales, businesses can continue to use an EU address until (and including) 31 December 2023.

4.4 Similar legislation is being laid in England and Scotland. Consequently, this legislation will provide for consistency across Great Britain.

5. Consultation

5.1 The Food Standards Agency, Defra, and Food Standards Scotland carried out a joint consultation through engagement with representative bodies in the food industry between 18 August 2022 and 30 August 2022.

5.2 The consultation responses confirmed that an extension will either have no impact on or provide a modest cost benefit to businesses.

5.3 The consultation fulfilled the requirement to consult in 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, during the preparation and evaluation of these regulations so far as they relate to food.

6. Regulatory Impact Assessment

- 6.1 The Regulations make transitional saving provisions that preserve the operation of existing legislation for limited purposes
- 6.2 The Regulations specify a date on which specific labelling rules apply for the purposes of compliance and enforcement, allowing businesses time to make changes during a transitional period.
- 6.3 Due to the nature of the Regulations a Regulatory Impact Assessment is not required.
- 6.4 This is in accordance with the exceptions outlined in the Welsh Ministers' Regulatory Impact Assessment code for subordinate legislation. In particular the code specifies that a Regulatory Impact Assessment is not required where the subordinate legislation is "*a Commencement Order or Commencement Regulations or Regulations which also make consequential provision or savings (provided the savings are not made by imposing an additional cost on an alternative party)*".
- 6.5 The Regulations extend the time which businesses have to make specific labelling changes resulting from EU exit. Consequently, they impose no additional costs and businesses may be able to make savings by continuing to use labels with EU addresses and EU terminology until (and including) 31 December 2023.