

# Consultation on the proposed amendment of the mutual recognition clauses in certain domestic food legislation in Wales

## Summary of stakeholder responses

**15<sup>th</sup> December 2021**

### Introduction

This consultation was issued on 2 September 2021 and closed on 28 October 2021.

The purpose of the consultation was to seek comments from industry, enforcement authorities, consumers and other interested stakeholders on the proposals to remove the mutual recognition clauses for the Jam and Similar Products (Wales) Regulations 2018; The Products Containing Meat etc., (Wales) Regulations 2014 and the Spreadable Fats (Marketing Standards), Milk and Milk Products (Protection of Designation) (Wales) Regulations 2008, and to amend the Bread and Flour Regulations 1998, as it applies to Wales to provide exemption clauses for unfortified flour. The consultation also sought additional information about relevant trade and the likely impacts of the proposed changes for those sectors.

The methods of consultation included an [online consultation](#) and direct contact by email was also made with a range of Welsh stakeholders, drawing their attention to the consultation.

The FSA is grateful to those stakeholders who responded and sets out in the table below the responses in order of the issues considered.

The key proposals on which the consultation sought views were:

- To remove the mutual recognition clause in Regulation 3(2) of the Jam and Similar Products (Wales) Regulations 2018, which had disapplied the Regulations for jam 5 and similar products that was brought into Wales from an EEA State, a Member State or the Republic of Turkey in which it was lawfully marketed.
- To remove the mutual recognition clause in Regulation 3(3) of the Products Containing Meat etc (Wales) Regulations 2014, which had disapplied the Regulations for products containing meat etc., that were brought into Wales from an EEA State, a Member State or from the Republic of Turkey, in which they were lawfully marketed.
- To remove the mutual recognition clause in Regulation 3 of the Spreadable Fats (Marketing Standards), the Milk and Milk Products (Protection of Designations) (Wales) Regulations 2008, which disapplied the Regulations to spreadable fats which were brought into Wales from an EEA State or from another part of the UK if it had been brought there from an EEA State and was suitably labelled to indicate the nature of the spreadable fat. In addition, Regulation 3 had disapplied the Regulations to margarine's which were brought into Wales from an EEA State in which it was lawfully produced and sold and such products from a Member State (other than the UK) in which it was in free circulation and lawfully sold. Finally, the Regulations disapplied such products from another part of the UK in which it was lawfully produced and sold or in free circulation and lawfully sold, and which was suitably labelled to indicate the nature of the margarine.
- To remove the mutual recognition clause in Regulation 3(2) of the Bread and Flour Regulations 1998, which had disapplied the Regulations for bread or flour, that was brought into Great Britain from an EEA state or a Member State in which it was either produced or was in free circulation and lawfully sold.
- To amend the Bread and Flour Regulations 1998, by substituting the current regulations 3(2) and 3(3) as they apply to Wales, with:
  - 3(2) These Regulations do not apply to:
    - a) Any flour or bread produced in Wales that is exported to a third country.
    - b) Any flour used in Wales to produced food that is exported to a third country, and

- c) Any flour brought into Wales from a third country, in which it was lawfully produced and sold, if the flour is to be used in Wales for the production of food that is then exported to a third country.

The Food Standards Agency's considered responses to stakeholders' comments are given in the last column of the table. A summary of changes to the original proposal(s) resulting from stakeholder comments is set out in the final table.

A list of stakeholders who responded can be found at the end of the document.

## Summary of substantive comments

### Issue – Introduction of a Statutory Instrument to remove or amend mutual recognition clauses in certain domestic food legislation.

#### Hybu Cig Cymru – Meat Promotion Wales (HCC)

**Comment:** HCC is supportive of the approach to introduce a statutory instrument that will remove the mutual recognition clauses in the Products Containing Meat etc., (Wales) Regulations 2014.

HCC notes that this would:-

- Remove the risk of challenge from WTO member countries under Most Favoured Nation Rules.
- Remove the provisions that allow EU Member States to export non-compliant products to the UK.
- Ensure equivalence of standards in food production between domestic UK producers and imported products.

Ensure red meat businesses in the home market are not disadvantaged through competition from imported red meat, which may not adhere to the same standards as UK

**Response:** The FSA acknowledges the support of HCC.

#### The Food and Drink Federation (FDF) and FDF Cymru

**Comment:** In summary, we agree with the proposals to remove the recognition clauses from the following four pieces of Welsh compositional standards legislation: The Products Containing Meat etc. (Wales) Regulations 2014; The Jam and Similar Products (Wales) Regulations 2018; The Spreadable Fats (Marketing Standards), Milk and Milk Products (Protection of Designations) (Wales) Regulations 2008; and The Bread and Flour Regulations 1998. It is believed that these changes could help improve food standards for GB consumers. For example, as there are no equivalent rules for specified meat products (i.e. minimum meat content), fruit curds or sweet mincemeat products in harmonised EU legislation.

**Response:** The FSA acknowledges the support of the FDF and FDF Cymru.

## Issue – Proposals in respect of Bread and Flour

### The Food and Drink Federation

**Comment:** We agree with the proposed amendments to allow the production of unfortified flour in Wales for export or to be used in the production of food products for export to be exempt from fortification requirements. This is an important option for food manufactures to have and is a key alignment step, which will maintain a level playing field within GB food legislation.

The FDF understands that this will be beneficial for the GB milling industry, however it is important to highlight the increased costs and complexities in operations, supply and production that this however, introduces. The unfortunate knock on impact of this is that it prohibits manufacturers having the option to use unfortified imported wheat flour in foods sold on the domestic GB market.

Noting the above unfortunate negative consequence, the FDF would welcome support from the Welsh authorities to develop a more agile Bread and Flour Regulations (BFR) that would include the introduction of deregulatory measures to make it less burdensome for the manufacturing industry and that facilitates trade.

**Response:** The FSA acknowledges the support of the FDF and FDF Cymru and a review of the Bread and Flour Regulations across the UK has already commenced

## Issue – Transitional Adjustment Periods

### The Food and Drink Federation

**Comment:** Regarding the period of adjustment, it is acknowledged that a consistent application date across the UK would be a key concept, however this unfortunately does not take into account the uncoordinated nature of the consultations across the four UK nations, and that the changes made in England allowed for a 16 month transition with less than 12 months being offered here.

**Response:** The date for the end of the transitional adjustment period has been chosen, following discussion between the FSA, Defra and Food Standards Scotland. The aim was to provide consistency for businesses who trade across the UK, by ending on the same date across all nations.

## Summary of changes made

No changes are being made following the consultation.

## Actions to be implemented

None.

## List of respondents

1. Hybu Cig Cymru - Meat Promotion Wales (HCC)
2. The Food and Drink Federation and the Food and Drink Federation Cymru