

Title: The Food (Miscellaneous Amendments Etc.) Regulations (Northern Ireland) 2018

Consultation summary page

Date launched:	15 November 2018	Closing date:	13 December 2018
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Who will this consultation be of most interest to?

Enforcement authorities, manufacturers, wholesalers and retailers of food products. This consultation may also be of interest to consumer groups and others with an interest in food and feed related legislation.

What is the subject of this consultation?

This consultation concerns the proposed Food (Miscellaneous Amendments etc.) Regulations (Northern Ireland) 2018 that will:

- i) Draw to the attention of food business operators (FBOs) and enforcement authorities an amendment made to Directive 2001/112/EC relating to fruit juices and similar products by Commission Delegated Regulation (EU) No 1040/2014, and to the requirements of Regulation No 2017/2158 on acrylamide;
- ii) Make other miscellaneous amendments and revocations to several Statutory Rules (SRs) to ensure the accuracy and currency of the statute book in Northern Ireland in relation to food before the UK exits the EU.

What is the purpose of this consultation?

To provide stakeholders with an opportunity to comment on the draft Regulations. The Regulations are based on the preferred option to make all the proposed changes described above in a single statutory rule.

Responses to this consultation should be sent to:

Executive Support Unit
FOOD STANDARDS AGENCY

Tel: +44 (0)28 90417700

Email: executive.support@food.gov.uk

Postal address:

Food Standards Agency
10a-10c Clarendon Road, Belfast
BT1 3BG

Impact Assessment included?	Yes	No X
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The Food (Miscellaneous Amendments Etc.) Regulations (Northern Ireland) 2018

Detail of Consultation

1. The Food Standards Agency in Northern Ireland (FSA in NI) would welcome your comments on the proposed Food (Miscellaneous Amendments etc.) Regulations (Northern Ireland) 2018 (“the proposed Regulations”) (Annex B).

Introduction

2. The purpose of the proposed Regulations is to:
 - a) Amend the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 to draw attention to an amendment made to Directive 2001/112/EC relating to fruit juices and similar products by Commission Delegated Regulation (EU) No. 1040/2014;
 - b) Amend the Food Hygiene Regulations (Northern Ireland) 2006 to draw attention to Regulation (EU) No. 2017/2158 on acrylamide; and
 - c) Make other miscellaneous amendments and revocations to several statutory rules (SRs) to ensure the accuracy and currency of the statute book in Northern Ireland in relation to food and feed before the UK exits the EU.

Proposals

3. The options being considered are:

Option 1 – Do nothing.

This would entail not making any of the proposed miscellaneous amendments including to the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 to provide for the enforcement of Commission Delegated Regulation (EU) No 1040/2014 and those to the Food Hygiene Regulations (Northern Ireland) 2006 in respect of the new EU Regulation on acrylamide. Choosing this option would mean that updates are not made, and therefore, the statute book in Northern Ireland in relation to food and feed would continue to contain out of date references to EU and domestic legislation.

Option 2 –

Make the Food (Miscellaneous Amendments etc.) Regulations (Northern Ireland) 2018 to cover all the proposed changes in one SR. This is the preferred option.

Key proposal(s):

- Amend the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 to draw attention to an amendment made to Directive 2001/112/EC relating to fruit juices and similar products by Commission Delegated Regulation (EU) No 1040/2014;
- Amend the Food Hygiene Regulations (Northern Ireland) 2006 to draw attention to Regulation (EU) No 2017/2158 on acrylamide;
- Make other miscellaneous amendments and revocations to several SRs to ensure the accuracy and currency of the statute book in Northern Ireland in relation to food and feed before the UK exits the EU.

Background

4. The proposed Regulations would make the changes set out below.

Fruit Juice

5. The Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 (“2013 Regulations”) transpose in Northern Ireland Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption. The 2013 Regulations lay down product definitions and reserved names by which juices and nectars can be called. They also set conditions for juice manufacture by laying down specific permitted raw materials and treatments that may be used and limit the amounts that may be used of certain ingredients and additives.
6. Commission Delegated Regulation (EU) No 1040/2014 was published and came into force in October 2014. It amends Annex I to Directive 2001/112/EC by adding to the list of authorised treatments and substances that may be applied to fruit juices and fruit nectars. Following this amendment, plant proteins from wheat, peas or potatoes may be used to clarify fruit juices.
7. Delegated Regulation 1040/2014 is directly applicable, which means that the change that it made to Directive 2001/112 has automatically become part of the law in operation in Northern Ireland. However, the FSA in NI considers it preferable to amend the 2013 Regulations to make clear to food business operators (FBOs) what substances may be applied to fruit juices.

Acrylamide

8. Acrylamide is a chemical substance formed by a reaction between amino acids and sugars. It typically occurs when foods with high starch content such as potatoes, root vegetables and bread, are cooked at high temperatures (over 120°C) in a process of frying, roasting or baking. Acrylamide is not deliberately added to foods; it is a natural by-product of the cooking process and has always been present in our food.
9. In June 2015, the European Food Safety Authority (EFSA) produced its full Scientific Opinion on the risks related to the presence of acrylamide in food and concluded that the current level of acrylamide is a concern for public health. EFSA highlighted that further work is needed to reduce the occurrence of acrylamide in food.
10. Following the EFSA opinion, the European Commission and Member States agreed that further risk management measures were needed to ensure that acrylamide levels in food are consistently as low as reasonably achievable through the application of appropriate mitigation measures by all (FBOs) along the food chain.
11. As a result, Commission Regulation (EU) 2017/2158 was published in November 2017, promoting and supporting best practice in managing acrylamide as a food safety hazard throughout the food chain. The Regulation has applied since 11 April 2018 and will supplement Regulation EC No 852/2004 on food hygiene by prescribing additional factors to which FBOs must have regard in carrying on their business.

12. Commission Regulation (EU) 2017/2158 is directly applicable and will automatically become part of the law in operation in Northern Ireland. It will be enforced in Northern Ireland by the Food Hygiene Regulations (Northern Ireland) 2006 (“2006 Regulations”). However, although this enforcement measure is already in place, the FSA in NI recommends making a small amendment to the 2006 Regulations to draw attention to the additional factors FBOs must have regard to in order to comply with Regulation 852/2004.

General Amendments

13. The FSA in NI proposes to take the opportunity to make further miscellaneous amendments and revocations to various SRs to:
 - i. fix or remove out of date references to domestic and EU legislation;
 - ii. update references to EU legislation that has been amended since the domestic legislation was made and where no ambulatory references are in place;
 - iii. insert ambulatory references where necessary and appropriate;
 - iv. revoke expired or redundant transitional measures;
 - v. revoke redundant provisions and whole SRs where necessary; and
 - vi. correct any other minor errors.

The purpose of these amendments is to ensure the accuracy and currency of the statute book in Northern Ireland in relation to food and feed before the UK exits the EU.

14. In relation to point iii. (ambulatory references), we propose to amend: -
 - a. Footnote 7 in Schedule 1 to the Specified Sugar Products Regulations (Northern Ireland) 2003 to insert an ambulatory reference to Annex I to Directive 2009/32;
 - b. The Plastic Kitchenware (Conditions on Imports from China) Regulations (Northern Ireland) 2011 to insert an ambulatory reference to Annex I to Regulation (EU) 10/2011.

The purpose of these amendments is to ensure that the domestic regulations provide for the enforcement of any changes that are made to the specified provisions of EU law between now and EU exit without having to amend the domestic regulations.

15. In relation to point iv. (revoking expired or redundant transitional measures) the proposed Regulations revoke transitional periods contained in the Coffee Extracts and Chicory Extracts Regulations (Northern Ireland) 2001, the Cocoa and Chocolate Products Regulations (Northern Ireland) 2003, the Specified Sugar Products Regulations (Northern Ireland) 2003, and the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013. These provisions related to products labelled before various dates between 2001 and 2016 and permitted these products to be marketed until the transitional periods ended or stocks run out.

Consultation Process

16. A shortened 4-week consultation is being launched to provide interested parties with the opportunity to comment on these proposals.
17. FSA in NI is particularly keen to hear from Small and Medium Enterprises on any likely impact and would encourage them to comment on all aspects of the proposal.
18. Any responses received as part of this consultation will be given careful consideration and a summary of the responses received will be published on our website within three months of publication of the regulation.

Consultation Questions

Questions asked in this consultation:

FSA in NI is not conducting an Impact Assessment as we don't believe there will be an impact on businesses or enforcement authorities. FSA in NI would like to request that any businesses or enforcement authorities who feel they may be impacted by the change in Regulations please respond to the consultation.

Q1: Do you agree that the transitional provisions are no longer required for:

- Specified Sugar Products Regulations (Northern Ireland) 2003;
- Cocoa and Chocolate Products) Regulations (Northern Ireland) 2003;
- Coffee Extracts and Chicory Extracts (Regulations (Northern Ireland) 2001; and
- Fruit Juices and Fruit Nectars (Regulations (Northern Ireland) 2013

as all affected stocks are now exhausted?

Q2: Do you agree with the inclusion of ambulatory references as described in paragraph 14?

Q3: Are there any additional points you would like to make regarding the proposed Food (Miscellaneous Amendments etc.) Regulations (Northern Ireland) 2018?

Responding to the Consultation

19. Responses are required by close of business 13 December 2018. Please state in your response whether you are responding as a private individual, or on behalf of an organisation (including details of any stakeholders your organisation represents) or company.

Thank you on behalf of the FSA in NI for participating in this public consultation.

Louise Beggs
Executive Support Unit

Enclosed

Annex A: Standard Consultation Information

Annex B: Draft Statutory Rule – The Food (Miscellaneous Amendments etc.)
Regulations (Northern Ireland) 2018

Annex C: List of interested parties

Annex A - Publication of personal data and confidentiality of responses

1. The European General Data Protection Regulation (GDPR) replaces the Data Protection Directive 95/46/EC and was developed to harmonize data privacy laws across Europe. In accordance with the GDPR, we are required to provide a privacy notice in relation to this public consultation. The Food Standards Agency will be known as the “Controller” of the personal data provided to us. We need to collect this information to allow us to effectively carry out our official duties of policy development and for the purposes of record keeping. In responding to this consultation, you have consented to provide this information to us but are able to withdraw your consent at any time by getting in touch with us.
2. Personal information is stored on servers within the European Union and cloud based services have been procured and assessed against the national cyber security centre cloud security principles. Personal information will not be used for any purpose other than in relation to this consultation. Personal information will be stored for as long as necessary to carry out the above functions and for five years from receipt in accordance with our retention policy. No third parties have access to your personal data unless the law allows them to do so.
3. You have a right to see the information we hold on you by making a request in writing to the email address below. If at any point you believe the information we process on you is incorrect you can request to have it corrected. If you wish to raise a complaint on how we have handled your personal data, you can contact our Data Protection Officer who will investigate the matter. If you are not satisfied with our response or believe we are processing your personal data not in accordance with the law you can complain to the Information Commissioner’s Office (ICO). Our Data Protection Officer in the FSA is the Information Management and Security Team Leader who can be contacted at the following email address: informationmanagement@food.gov.uk
4. In accordance with the FSA principle of openness, the FSA shall keep a table of comments received during the consultation along with our response to be made available to the public on receipt of a request to the [FSA Consultation Coordinator](#) (020 7276 8308). The published table of comments may include your full name. Disclosure of any other personal data would be made only upon request for the full consultation responses. **If you do not want this information to be released**, please complete and return the [Publication of Personal Data Form](#). Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.

Further information

5. A list of interested parties to whom this letter is being sent appears in Annex D. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
6. Please contact us if you require this consultation in an alternative format such as Braille or large print.
7. **This consultation has been prepared in accordance with [HM Government Consultation Principles](#).**