

Common Commencement Dates

Statement of Forthcoming Regulations in 2009

The Chancellor of the Exchequer announced in the Budget Report on 16 March 2005 that, by April 2006, the Government would extend the use of Common Commencement Dates (CCDs) for new regulations that will have an effect on business.

This is in response to recommendation seven of the Better Regulation Task Force report Regulation – Less is More. Reducing burdens, Improving Outcomes¹, which the Government has accepted in full.

It is hoped that publishing a list in January and July each year of regulations due to come into force on each of these dates will increase awareness of the introduction of new or amended requirements. It should also make it easier for businesses to comply with the latest regulations, by enabling them to plan ahead and implement new measures to coincide with commencement dates. This statement does not preclude the Food Standards Agency from introducing any emergency legislation during the year.

The FSA is fully committed to helping the food industry meet the regulatory requirements placed upon it and in aiding the enforcement of regulatory standards. It is in consumers' best interests that this process is as effective and accessible as possible.

This statement details forthcoming changes in 2009 and is divided into 5 sections:

- Section A – 6 April 2009
- Section B – 1 October 2009
- Section C - Agreed sectoral CCDs
- Section D - EU directives and regulations implemented outside the CCD timetable
- Section E - Other interventions that impact on business

Further information on Common Commencement Dates² can be found on the Department for Business, Enterprise and Regulatory Reform website.

¹ <http://archive.cabinetoffice.gov.uk/brc/publications/lessismoreentry-2.html>

² <http://www.berr.gov.uk/whatwedo/enterprise/enterprisesmes/regulation-and-tax/info-officials/ccds/page37983.html>

STATEMENT OF FORTHCOMING REGULATIONS IN 2009

Section A - Changes due to commence on 6 April 2009

There are no regulatory changes due to commence on 6 April 2009

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Section B – Changes due to commence on 1 October 2009

There are no regulatory changes due to commence on 1 October 2009

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Section C - Agreed sectoral changes due to commence in 2009

There are no sectoral regulatory changes due to commence in 2009

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Section D - Regulations arising from Europe which are not aligned to either common commencement date

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| Coming Into Force Date: | September 2009 |
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The Purity Criteria for Colours, Sweeteners and Miscellaneous Food Additives (Wales) (Amendment) Regulations 2009

These Regulations will correct an error found in the Welsh text of The Purity Criteria for Colours, Sweeteners and Miscellaneous Food Additives (Wales) Regulations 2009.

The Purity Criteria for Colours, Sweeteners and Miscellaneous Food Additives (Wales) Regulations 2009 provide for the implementation of three Commission Directives: Commission Directive 2008/128/EC laying down specific purity criteria concerning colours for use in foodstuffs; Commission Directive 2008/60/EC laying down specific purity criteria concerning sweeteners for use in foodstuffs; and, Commission Directive 2008/84/EC laying down specific purity criteria for food additives other than colours and sweeteners. These Directives codify and replace the existing legislation on purity criteria for colours, sweeteners and miscellaneous additives set out in (respectively) Commission Directives 95/45/EC, 95/31/EC and 96/77/EC, all as amended.

The Food Standards Agency Wales has received advice from the Assembly's Directorate of Legal Services that it was reported by the Subordinate Legislation Committee that the drafting of the Purity Criteria for Colours, Sweeteners and Miscellaneous Food Additives (Wales) Regulations 2009 is defective. In the English text Regulation 3(2)(a) refers to omitting the definition of "Directive 95/31/EC" in the Sweeteners in Food Regulations 1995. However, in the Welsh text Regulation 3(2)(a) refers to omitting "Directive 95/45/EC" which is incorrect. The purpose of the proposed Purity Criteria for Colours, Sweeteners and Miscellaneous Food Additives (Wales) (Amendment) Regulations 2009 is to correct this error in the Welsh text. It is proposed that new Amending Regulations come into force as soon as possible.

In this instance, parallel legislation is not required in England, Scotland and Northern Ireland.

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| Coming Into Force Date: | Late autumn 2009 |
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The Feed (Sampling and Analysis) Regulations 2010

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

A Statutory Instrument to provide for the enforcement of EC Regulation 159/2009 on methods of sampling and analysis for the official control of animal feed. This will require both the revocation of existing (UK-wide) secondary legislation on sampling and analysis and the amendment of primary legislation — the Agriculture Act 1970 — to bring certain definitions in it into line with those in the EC measure, which latter will require the involvement of Parliamentary Counsel. Public consultation is expected to be carried out later this year.

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| Coming Into Force Date: | October 2009 |
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Working Title - The Food Hygiene (England) (Amendment) Regulations 2009

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

The regulations will:

amend the list of definitions of Community legislation in the Food Hygiene (England) Regulations 2006 (i.e. it will give effect to new Community regulations amending Community hygiene legislation applying to: the methods of detecting trichinella, the methods of detecting Amnesic Shellfish Poisoning, the inspection of young animals, Official Veterinarian presence, record keeping as it applies to some fishing, gelatine manufacture, fish oil imports and microbiological criteria)

allow certain slaughterhouses formerly classified as low throughput to be exempted from the requirement to have facilities for detained meat and facilities for cleansing and disinfection of livestock vehicles

prescribe the format for a special health and identification mark to be used on carcasses of animals subject to emergency slaughter outside a slaughterhouse and on the meat derived from such carcasses.

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A draft form of the regulations has been sent out for consultation, which closed on 4 January 2008 (details below).

Further information England³

Further information Scotland⁴

Further information Northern Ireland⁵

Further information Wales⁶

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| Coming Into Force Date: | October 2009 |
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The Food Labelling (Nutrition Information) (England) Regulations 2009

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

A Statutory Instrument to transpose Commission Directive 2008/100/EC which amends Council Directive 90/496/EEC on nutrition labelling for foodstuffs. Legislation to bring the Directive into force must be in place by 31 October 2009. The Directive requires that trade in products which do not comply be prohibited from 31 October 2012.

Directive 2008/100/EC amends Council Directive 90/496/EEC so that it:

- includes a definition of fibre
- includes energy conversion factors for fibre and erythritol
- includes an updated list of vitamins and minerals which may be declared and their recommended daily allowances.

Further information⁷

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| Coming Into Force Date: | October/November 2009 |
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The Feed (Specified Undesirable Substances) (England) Regulations 2009

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

A Statutory Instrument to transpose Commission Directive 2009/8/EC setting maximum permitted levels for the carry-over of residues of coccidiostats into feed for non-target species. Coccidiostats are substances intended to help prevent coccidiosis, or infestations of the gastro-intestinal tract by certain single-celled micro-organisms (protozoa). Twelve weeks of public

³ <http://www.food.gov.uk/consultations/consulteng/2007/hygieneenglandamend08>

⁴ <http://www.food.gov.uk/consultations/consultscot/2007/hygscot2008>

⁵ <http://www.food.gov.uk/consultations/consultni/2007/hygieneamend08ni>

⁶ <http://www.food.gov.uk/consultations/consultwales/2007/hygieneamendwales08>

⁷ <http://www.food.gov.uk/consultations/consulteng/2008/nutlabelmar08eng>

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consultation ended on 15 June 2009. We expect to submit the finalised Regulations for ministerial signature when the Parliamentary session resumes in October.

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| Coming Into Force Date: | November 2009 |
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The Food Labelling (Declaration of Allergens) (England) Regulations 2009

In 2008 there was a package of changes to allergen labelling legislation which meant that the temporary exemption from the allergen labelling provisions for a number of ingredients derived from the listed allergenic foods, including wine fining agents produced from egg and milk, expired with effect from 31 May 2009. This was enacted in England, and other devolved administrations, by the Food Labelling (Declaration of Allergens) Regulations 2008.

There has been a subsequent legal change by the Commission, which further extends from 31 May 2009 until December 2010 the temporary exemptions from the labelling provisions for egg and milk based fining agents used in wine.

This means that under current UK legislation we have the anomalous situation where enforcement officers have the powers to take action against products where the use of these wine fining agents has not been labelled but, under the Commission Regulation (EC) No 415/2009, producers are now not required to declare these ingredients on the label.

The Food Labelling (Declaration of Allergens) (England) Regulations 2009 will resolve this anomaly and ensure clarity for food businesses and enforcement bodies.

Further information⁸

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| Coming Into Force Date: | 21 December 2009 |
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Fish Labelling (England) Regulations 2009

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

The Fish Labelling (England) Regulations 2009 are intended to replace the Fish Labelling (England) Regulations 2003 and the Fish Labelling (Amendment) (England) Regulations 2006. The Regulations contain a

⁸ <http://www.food.gov.uk/consultations/consulteng/2009/draftsidecallergensregs09eng>

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Commercial Designations schedule, as required by the Regulation (EC) 104/2000, which said Member States should publish a list of names of fish accepted in their territory, so as to standardise the names by which fish could be labelled. This was amended in 2006.

It was agreed last year that there were sufficient new fish on the market to warrant a new Regulation. The draft schedule has been revised accordingly, with the help of an Expert Working Group. It is intended that the previous Regulations be consolidated and revoked as it is simpler to have one existing Regulation than a further amendment Regulation.

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| Coming Into Force Date: | 1 January 2010 |
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The Official Feed and Food Controls (England) (Amendment) Regulations 2009

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

The Regulations will be revised to give effect to the Commission Regulation implementing the provisions of Article 15(5) of Regulation (EC) 882/2004 as regards the increased level of official controls on imports of certain feed and food of non-animal origin. The Regulations include an 'information gateway' which permits the regulatory authorities to exchange information received in the course of their duties. It is proposed that the Regulations are amended to extend the 'information gateway' to include Her Majesty's Customs Revenue and Customs and to update the Regulations with minor technical amendments.

Further information⁹

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| Coming Into Force Date: | 20 January 2010 |
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European Parliament and Council Regulation 1333/2008 on food additives — enforcement legislation in England

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

New legislation will give effect at national level to Regulation 1333/2008, which will consolidate and replace four existing EU Directives — 89/107/EEC (the food additives “framework” Directive), 95/2/EC (miscellaneous additives), 94/35 (sweeteners) and 94/36 (colours). The Regulation aims to simplify the existing legislation and introduces the use of comitology for decision-making

⁹ <http://www.food.gov.uk/foodindustry/regulation/europeleg/feedandfood/>

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on the authorisation or new uses of individual substances. It establishes uniform procedures for the authorisation of these substances and specifies the role of the European Food Safety Authority (EFSA).

This Regulation also introduces harmonised controls for the use of food additives in food additives and in enzymes and for carriers in nutrients. In addition it introduces, from 20 July 2010, a requirement for the labelling of the six Southampton colours with a warning that they may have an adverse effect on activity and attention in children.

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| Coming Into Force Date: | 20 January 2010 |
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European Parliament and Council Regulation 1332/2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97 — enforcement legislation in England

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

New legislation will give effect at national level to Regulation 1332/2008, which harmonises national provisions relating to the use of enzymes in foods. EU rules are now established for the evaluation, approval and control of enzymes used in food. Currently, food enzymes used during the processing of foods but not active in the final products (processing aids) are not covered by EU legislation, and in the UK are regulated under General Food Law. The EU Regulation allows for the establishment of a positive list of all food enzymes used in food for a technological purpose based on favourable scientific opinions from EFSA and also includes requirements for the labelling of food enzymes other than those used as processing aids.

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| Coming Into Force Date: | Spring 2010 |
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Food Hygiene (England) (Amendment) Regulations 2010

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

The Regulation will provide enforcement powers for various EC Regulations published in the Official Journal on 18 October 2008. The regulations will amend the list of definitions of Community legislation in the Food Hygiene (England) Regulations 2006 (i.e. give effect to new Community regulations amending Community hygiene legislation applying to: the procedures used when clean water is being used to clean whole fishery products or when clean seawater is used to clean live LBMs, echinoderms, tunicates and marine

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gastropods; updates the requirements for ID marking; requirements for fishery products, raw cows' milk and eggs and egg products; the duties of official controls in slaughterhouses; the import of fish oil from third countries; total volatile basic nitrogen (TVB-N) limits in unprocessed fishery products.

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| Coming Into Force Date: | First half 2010 |
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European Commission Regulation Concerning the Composition and Labelling of Foods Suitable for People Intolerant to Gluten

As this is an EU Regulation it will be directly applicable across the UK 20 days after its publication in the Official Journal of the European Union. However, the EU Regulation also includes a transition period until 1 January 2012 to allow manufacturers time to amend their labels. This Regulation comes under the foods for particular nutritional uses (parnuts) framework Council Directive 89/398/EEC. It sets out rules for the labelling of foods suitable for people intolerant to gluten as 'gluten-free' or 'very low gluten'.

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| Coming Into Force Date: | First half 2010 |
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Addition of substances for particular nutritional uses Regulations 2010

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

These implementing Regulations will put in place enforcement provisions relevant to the Commission Regulation on substances that may be added for specific nutritional purposes in foods for particular nutritional uses; this is likely to be published in November. This Regulation consolidates Directive 2001/15/EC and its amendments and introduces into the Annex certain substances which have recently received positive opinions from EFSA.

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| Coming Into Force Date: | First half 2010 |
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Not known yet, but it will be in relation to the recast parnuts framework directive

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

The 'parnuts' framework directive (89/398/EEC) has been recast and replaced by Directive 2009/39/EC. The implementing SI will amend existing food legislation to replace references to 89/398/EEC with references to 2009/39/EC.

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| Coming Into Force Date: | June 2010 |
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The Materials and Articles in Contact with Food (England) Regulations 2010

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

The Materials and Articles in Contact with Food (England) Regulations 2010 will implement the enforcement provisions of Commission Regulation (EC) No. 450/2009 on active and intelligent materials and articles intended to come into contact with food. The proposed 2010 Regulations for England will also revoke the Materials and Articles in Contact with Food (England) Regulations 2007 and re-make them with necessary amendments.

The Commission Regulation was published in the Official Journal (OJ) of the European Union on 30 May 2009 (Ref OJ, 20.05.2009, L135 pg 3-11). The Regulation will come into force on 20 June 2010 and is directly applicable throughout the EU. Full details of the publication are available at the link below.

Further information¹⁰

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| Coming Into Force Date: | Jan 2011 |
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European Parliament and Council Regulation 1334/2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC – enforcement legislation in England

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

New legislation will give effect at national level to Regulation 1334/2008, which will amend and replace the above-mentioned Regulations and Directives as well as Council Directive 88/388/EEC (the flavourings “framework” Directive), Commission Decision 88/389/EC and Commission Directive 91/71/EEC.

¹⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:135:0003:0011:EN:PDF>

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| Coming Into Force Date: | TBC |
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Commission Directive to amend the Annex to Directive 2008/38 Listing Products for Particular Nutritional Purposes
[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

This measure, which received a positive vote in the Standing Committee in June, amends an existing entry in the Annex to Directive 2008/38 concerning dietetic feeds for "the support of renal function in case of chronic renal insufficiency". It has yet to appear in the Official Journal, but Member States will be required to transpose the measure no later than six months after its publication. Transposition will be by an SI which will be subject to the usual public consultation period of 12 weeks.

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Section E - Other interventions that impact on business due to commence in 2009

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| Coming Into Force Date: | 20 September 2009 |
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The Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2009

These Regulations concern a Food Standards Agency proposal to amend the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 to enable the Agency to have powers to authorise officers from other enforcement bodies to carry out certain primary production feed hygiene enforcement functions whilst those bodies carry out other enforcement duties. This proposed delivery arrangement is specific to Scotland.

The main aim of the proposed inspection arrangement is to reduce additional hygiene visits to farms by Local Authority staff in line with the specific aims of Scotland's Environmental and Rural Service, which are to reduce the number of on-farm visits by different regulatory bodies by providing a single delivery service. Initially this proposal would enable the Scottish Government's Rural Payments and Inspections Directorate staff to undertake primary production feed hygiene inspections whilst carrying out cross compliance visits on farms.

Further information¹¹

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| Coming Into Force Date: | 28 September 2009 |
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The Meat (Official Controls Charges) (England) Regulations 2009

[Parallel legislation will also be laid in Scotland, Wales and Northern Ireland.]

The Food Standards Agency is to proceed with the introduction of regulations for a new system of calculating charges for official controls in meat plants following agreement by Ministers in all four UK countries. Time-based charging for meat hygiene and animal welfare at slaughter will replace the current charging arrangements under which the operators of most approved meat businesses pay charges based on their throughput of carcasses or tonnage of meat multiplied by fixed fees.

¹¹ <http://www.food.gov.uk/consultations/consultscot/2009/draftfeedregsscot>

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Increases to charges that had been proposed by the FSA are not being introduced at this time. This means that, if official control time remains unchanged, meat businesses will not face an increase in the charges they pay when time-based charging is introduced. Charges could be lower for some businesses where official control time is reduced.

Further information

Board Paper¹² - Proposed Changes to Charging Arrangements and Charging Rates For Official Meat Controls (April 2009)

News Story 26 June 2009¹³

Consultation¹⁴

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| Coming Into Force Date: | December/January 2010 |
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Revision of Guidance to compliance with Regulation (EC) 1924/2006

Article 11 of 1924/2006 allows national measures to control the use of recommendations of or endorsements by national medical associations or health-related charities. The measures to control these in the UK are a mix of existing legislation, which in effect allows only a very narrow derogation from 1924/2006. Stakeholders have expressed difficulty in understanding this and we have undertaken to produce guidance to clarify this. There is nothing different from or additional to existing legislation and this should represent no burden on business, but a material benefit as an aid to compliance.

It is as yet undecided whether to make this free-standing guidance or an Annex to the existing guidance to compliance to 1924/2006, which will be revised and updated at the same time. This latter option is favoured, but this could be influenced by consultation on the draft guidance.

Further information¹⁵

¹² <http://www.food.gov.uk/multimedia/pdfs/board/fsa090407.pdf>

¹³ <http://www.food.gov.uk/news/newsarchive/2009/jun/officialcontrols>

¹⁴ <http://www.food.gov.uk/consultations/consulteng/2008/proposedcharging>

¹⁵ <http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/19242006complianceguide>