

Summary of Substantive Comments to the FSA Consultation – Food Labelling (Declaration of Allergens) (England) Regulations

14 June – 4 September 2007

SUMMARY REPORT OF RESPONSES TO CONSULTATION FROM STAKEHOLDERS

The Food Labelling (Amendment) (England) (No.2) Regulations 2004 implemented Directive 2003/89/EC, which amends Directive 2000/13/EC, as regards the indication of the ingredients present in foodstuffs. These Regulations, which came into force on 26 November 2004, established a list of 12 allergens that have to be indicated on the label whenever they or their derivatives are used as deliberate ingredients in pre-packed food, including alcoholic drinks.

Due to increasing concerns about the allergenicity of both lupin and molluscs, and following advice from the European Food Safety Authority (EFSA), the European Commission has extended the list of 12 potential food allergens to include lupin and molluscs (gastropods, bivalves or cephalopods), and products obtained from them.

The draft Food Labelling (Declaration of Allergens) (England) Regulations will implement Commission Directive 2006/142/EC, of 22 December 2006, amending Annex IIIa of Directive 2000/13/EC, by adding lupin and molluscs to the list of allergens in Schedule AA1. This consultation was issued on 14 June 2007 and closed on 4 September 2007. (Separate but parallel legislation will be made in respect of England, Scotland, Wales and Northern Ireland.)

The consultation sought views on:

1. the draft Food Labelling (Declaration of Allergens) (England) Regulations.
2. the partial regulatory impact assessment and the questions posed.
3. the accompanying guidance notes.

At the same time, the opportunity was taken to seek views on developments relating to the implementation of permanent exemptions from the labelling provisions for certain ingredients derived from the listed allergenic foods for which temporary exemptions expired on 25 November 2007.

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.

**Summary of Substantive Comments to the FSA Consultation – Food Labelling (Declaration of Allergens) (England) Regulations
14 June – 4 September 2007**

| Name/Organisation | Comments made | FSA Comments/Action to take |
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| Anaphylaxis Campaign | <p>AC supports the addition of Lupin and Molluscs to the list of allergens.</p> <p>Guidance notes not user friendly</p> | <p>Noted with thanks.</p> <p>The Guidance Notes will be reconsidered in the light of these, and similar, comments received.</p> |
| British Soft Drinks Association | <p>Glucose-fructose syrups (HFGS) derived from wheat are used in a very large number of different drinks and consequently the number of label changes required would be exceptionally large if temporary exemptions were not maintained.</p> <p>For this reason members request that serious consideration be given to extending the transitional period for existing label stocks to be used up from the usual one year to a possible 2 years. Changing, producing and introducing systematically such a large number of labels in only 12 months would present serious difficulties.</p> | <p>UK will take these comments into consideration and negotiate the best lead in time possible.</p> |
| Dailycer UK Ltd | <p>Agree with proposals made.</p> <p>Would suggest that all the amendments that have been made are consolidated into one set of regulations for clearer understanding, and ease of use.</p> <p>Occasionally it is useful to draw all the strands together again, and this is</p> | <p>Noted with thanks.</p> <p>Once the EU labelling review is completed it is planned to revise the UK food labelling legislation.</p> |

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| | a good time to make such a move. | |
| Danish Meat Association | No comments as topic are irrelevant to business. But the issues were clearly set out and appropriate time was given to respond to the issues raised. | Noted with thanks. |
| Principle Officer Environmental Health & Licensing East Ayrshire Council | The proposal to add molluscs and lupin to schedule AA1 of the Food Labelling Regulations 1996 reflects the increasing concerns about allergenicity of lupin and molluscs and their derived products and is in the general interest of public protection, provision of information and informed consumer choice. With regards to the temporary exempt derived ingredients we have no comments to make. | Noted with thanks. |
| East of England Trading Standards Association | Agree that Lupin and Molluscs should be added to the list of allergenic ingredients. Transitional period of 12 months seems reasonable. Do not feel that the new requirements relating to Lupin and Molluscs should be applied to foods sold loose. Concerned about the uncertainty regarding the exempt derived ingredients. | Noted with thanks. Noted with thanks. This information will be used in discussion with the EC when the topic is debated. The FSA continues to raise this issue with the EC. |
| Editor of Food Solutions – publication for small food businesses | Strongly recommend option 2 as the most appropriate for incorporation into Scottish law. | Noted with thanks. |

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| | <p>Any cost involved is inevitable and would not disagree with the BRC estimate of £1000 per label.</p> <p>We would strongly oppose any moves to make it mandatory to label non-pre-packed foods or catering meals as this would be impractical and unable to be enforced. Something else needs to be done to protect consumers of catering establishments.</p> <p>Pressing need to educate small businesses to make them aware of allergenic foods. Experience is that many small operators would not read or understand the full guidance. There is the need for simple guidance. In this respect I and some colleagues drafted the FSA booklet reference FSA/1105/1206. This is very popular and 25,000 copies have already been asked for. Our colleagues in the other Member States also admired it. We would recommend that a similar document be produced for Scotland and would be happy to provide help.</p> <p>There has been much talk about the may contain warning. Advice must be based on risk assessment, knowledge of risk and understanding of possible problems e.g. a 1 gram whole peanut in 50 kg of dough versus 1 gram of peanut dust evenly distributed through the dough.</p> | <p>Noted with thanks.</p> <p>This information will be useful in discussions with the EC when the topic is debated.</p> <p>Noted with thanks. The Agency is in the process of drafting a guidance providing businesses with easy to understand allergen advice for foods sold non pre-packed</p> <p>Noted with thanks.</p> |
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| | <p>Labelling is not the prime cause of allergenic failure. The small business community is supportive of any measures to protect consumers and to produce safe food. They therefore both want and need education to be able to advise consumers.</p> <p>We would recommend option 2 coupled with clear and concise guidance as the most appropriate for the small business community.</p> | Noted with thanks. |
| Forum Group | <p>Have no views on the draft Food labelling (Declaration of Allergens) (England) Regulations 2007 and the RIA will not have an effect on this business.</p> <p>The guidance notes are ok.</p> <p>Disgraceful that the issue of temporary exempted non-allergenic ingredients derived from allergen sources, has not been resolved by EFSA. Manufacturers require 2 years lead-in for new labelling regulations for packaging and product development, in addition a 3 year shelf life is needed once the product is in production, before the regulation becomes mandatory, therefore this exemption should be extended to November 2009.</p> | <p>Noted with thanks.</p> <p>Noted with thanks.</p> <p>Noted with thanks.</p> |
| LACORS | <p>No comments on draft regulations.</p> <p>Rise in resources required by LA's to sample and analyse foods to check Compliance.</p> <p>Scope, content and format</p> | <p>Noted with thanks.</p> <p>Noted.</p> <p>Noted with thanks.</p> |

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| | of revised guidance notes are fine. | |
| Lee Kum Kee Holdings | No comments | Noted with thanks. |
| Meat Promotion Wales (Hybu Cig Cymru) | No comments but would like to be kept informed of future developments in this area. | Noted with thanks. |
| National Association of Cider Makers (NACM) | <p>Isinglass is used as a fining agent in the preparation of alcoholic beverages including cider.</p> <p>In the event that the EFSA opinions on isinglass were to be unfavourable, causing the temporary labelling exemption for isinglass to be lost, NACM members would need time to change their labels and packaging.</p> <p>An implementation period of not less than 18 months to allow a smooth transition and sufficient time to use up existing stocks of labels and packaging.</p> | UK will take these comments into consideration and negotiate the best lead in time possible. |
| National Food Centre | No comments as topic are irrelevant to business. But the issues were clearly set out and appropriate time was given to respond to the issues raised. | Noted with thanks. |
| Royal College of Physicians and Surgeons of Glasgow | Support option 2 - implement EC requirements - as feel this will improve safety for patients. | Noted with thanks. |
| Scotch Whisky Association | <p>Would like the wording of the exemption to make it clear that it is only when specified raw materials are used in the distillation process that the exemption has been granted.</p> <p>With regard to wheat based maltodextrins and wheat based glucose syrups used in the</p> | UK will take these comments into consideration and negotiate the best lead in time possible. |

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| | <p>production of caramel, it is hoped that the EFSA opinion on this will be adopted.</p> <p>The UK's implementation of the new Directive needs to be in place by 25 November 2007. It is to everyone's interests to know the content of the new Directive as soon as possible in case any of the temporarily exempt ingredients did not gain permanent exemption.</p> <p>Important to have at least 12 months to make any label changes.</p> | |
| Scottish Salmon Producers Association | No comments | Noted with thanks. |
| Spoutwells Consultancy | No comment to make on this occasion | Noted with thanks. |
| VEGA | <p>Favours option 3 in Annex B.</p> <p>More detailed chemical names are needed in labelling.</p> <p>Regulations need to be overhauled in light of free from claims.</p> <p>"May Contain" type warnings should also be considered for other ingredients that people may wish to avoid for religious or other reasons (e.g. vegetarians).</p> | <p>Noted with thanks.</p> <p>The FSA supports the use of names which are readily recognisable by the majority of people.</p> <p>Once the EU labelling review is completed it is planned to revise the UK food labelling legislation.</p> <p>Noted with thanks.</p> |
| Vitrition UK | No comments as topic are irrelevant to business. But the issues were clearly set out and appropriate time was given to respond to the issues raised. | Noted with thanks. |
| Wales Heads of Trading Standards | Welcomes the introduction of the Regulations and timely introduction of | Noted with thanks. |

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| | <p>guidance notes. Current guidance notes incomprehensible and new guidance should be dedicated to allergen labelling. Draft Regulatory impact assessment reflects a reasonable cost. Accept it would not be beneficial to extend allergen labelling to loose foods.</p> | <p>The Guidance Notes will be reconsidered in the light of these, and similar, comments received.</p> <p>Noted with thanks.</p> <p>This information will be used in discussion with the EC when the topic is debated.</p> |
| Gill Ward | In support of the implementation of Option 2. | Noted with thanks. |
| Welsh Consumer Council | No comments to make on this consultation. | Noted. |
| Name withheld | <p>Agrees with the FSA's preferred option to implement the EC requirements, and to fully implement the provisions of Directive 2006/142/EC into UK law.</p> <p>There will be work involved for our business, as highlighted by the Partial RIA, to review and confirm the origins of some of our raw materials.</p> <p>Little use of lupin in flour or molluscs by business and hope to capture additional costs of re-labelling by using labelling cycle.</p> <p>In respect of the temporary exemption from labelling requirements within Directives 2005/26/EC and 2005/63/EC, which expires on 25th November 2007, our preferred option would be that all the derived products gain permanent exemption. Should the action be that only some of the provisionally exempt products gain permanent</p> | <p>Noted with thanks.</p> <p>UK will take these comments into consideration and negotiate the best lead in time possible.</p> |

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| | <p>exemption, this could have a large impact on our business if wheat based Glucose Syrup and Dextrose, used throughout our products, were denied exemption – a widespread number of artwork changes would be required. If this were the case, we would request a minimum transitional period of 12months to implement the changes required.</p> | |
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