

**Summary of Responses to the Consultation on: Draft Food Labelling (Declaration of Allergens) Regulations 2008.**

Responses received following consultations carried out on the draft SIs for England, Scotland, Wales and Northern Ireland.

Consultation Issued: 1 February 2008

Consultation ended: 14 March 2008

Reference No: NAT/

Questions asked in the Consultation:

1. To seek your views of the draft Food Labelling (Declaration of Allergens) (England) Regulations 2008 and parallel regulations in Scotland, Wales and Northern Ireland.
2. To seek views on the partial regulatory impact assessment and the questions posed.
3. To seek views on the accompanying guidance notes.

<b>Respondent</b>	<b>Comment</b>	<b>FSA Comments</b>
Anaphylaxis Campaign	<p>Implementing the exemption list into UK law will be beneficial for the consumer. People's choices of food will not be restricted by the unnecessary labelling of derived products that are no longer allergenic. To label such derivatives might actually be dangerous because allergic consumers would reach false conclusions about their allergic state: where someone eats a food containing one of the derivatives and does not react, they might wrongly conclude that their allergy has resolved, with potentially dangerous consequences.</p> <p>Suggested that a reference should be added to the section on seasonal selection packs to note that under the proposal for an EU Food Information Regulation, the exemption from labelling on the outer packaging of these packs could be phased out.</p> <p>Also made a number of suggestions for improving the guidance notes.</p> <p>We support option 2.</p>	<p>Noted.</p> <p>It would be inappropriate to pre-empt the Regulation on Food Information.</p> <p>Noted with thanks, will reconsider the wording of the areas highlighted.</p>
Ian Anderson	No comment	

<p>British Retail Consortium (BRC)</p>	<p>No comments on the draft SI but had a number of suggestions for improving the guidance notes, including deleting the reference to Directive 2005/26/EC.</p> <p>BRC Members asked why it was considered best practice to label chestnuts and pine nuts, which are not on the list, but not to include other allergens which are known to cause reactions, such as kiwi fruit.</p>	<p>Noted with thanks, will reword the relevant paragraphs listed in light of comments. However, the reference to Directive 2005/26/EC must remain for the time being because provisions of this directive will continue until May 2009, the date when all labels must be revised.</p> <p>This is because consumers often believe that chestnuts and pine nuts are nuts and those who react to these foods are sometimes confused when they are not included in allergen labelling.</p>
<p>British Standards (BSI)</p>	<p>British Standards has no comment on the regulation itself, but noting the existence of Guidance Notes and Best Practice in the Annexes, draws the Agency's attention to its experience in developing best practice through an industry consensus process across a number of industries.</p> <p>Noting that a wider review of food information and labelling is currently being undertaken by the European Commission, BSI would welcome the opportunity to work further with the Food Standards Agency on the use of standardization and voluntary labelling to support regulation. A single coherent labelling scheme, achieved through consensus on accepted best practice in labelling for food to include allergen information alongside other important information would be of benefit to consumers and manufacturers alike. The use of standards to support such schemes can avoid proliferation of different schemes whilst supporting Government's regulatory and consumer protection objectives.</p>	<p>Noted.</p>

Cullinane Associates Limited	<p>No comments on the draft regulations, however had several comments on the Impact Assessment:</p> <ul style="list-style-type: none"> <li>• Cost to industry of £403,000 and Local Authorities of £9000, how is the figure of £385,500 calculated and where does £82,500 over 5 years come from?</li> <li>• The assumption of 1 man-hour for each business is far too low.</li> <li>• As well as investigating suppliers, the business will receive enquiries from the businesses they supply to.</li> <li>• No consideration given to the costs to the service industry ie trainers, auditors, IT consultants etc.</li> <li>• Busy small businesses will have to employ consultants to implement the new SI.</li> </ul> <p>Also, made a number of suggestions for improving the guidance notes.</p>	<p>Noted with thanks, these areas of concern will be re-evaluated in the light of these comments however, these calculations were made following set guidelines.</p> <p>Noted with thanks, will reconsider the wording.</p>
Food Solutions	<p>This is a sensible and logical move to make the temporary exceptions permanent through a formal Directive and we would support the implementation of Directive 2007/68/EC in its entirety.</p> <p>However, we are concerned that, in order to maintain accuracy, the guidance issued by the Agency to small businesses may need some amendments. We do not consider that the booklet "What to consider when labelling food" needs to be changed as there is adequate instruction on page 3. However, we note that subsequent printings may need to include molluscs and lupin. In addition, there may be a need to amend the full guidance as that is more specific.</p>	<p>Noted.</p> <p>Noted.</p>
Good Food Wines	<p>Expressed concern that the terminology in the guidance for possible trace carry-over of certain processing aids used in wine manufacture (ie casein) is not sufficiently clear.</p> <p>Also, as taking a worse case scenario for trace carryovers, concerned that the labelling statement might be given as a 'may contain traces of' or 'contains derivatives of milk' and expressed concern that these would have to be labelled as contains milk – which is both misleading and confusing,</p>	<p>Noted, will reconsider the wording used in the guidance.</p> <p>Unintentional contamination should not be labelled as a deliberate ingredient. However, if the milk is present as a result of the fining process this would have to be declared.</p>

Laboratory of Government Chemist (LGC)	<p>The proposed regulation is well drafted and covers the material required. The associated guidance is very welcome.</p> <p>In paragraph 33 dealing with Foods Supplied to Businesses, line 3, a word is missing so that the intention is not as clear as it might be.</p>	Noted with thanks, the wording of this paragraph will be re-considered.
Local Authorities Coordinators of Regulatory Services(LACORS)	<p>No comments on draft SI.</p> <p>Scope, content and format of revised guidance notes are fine.</p> <p>We support option 2.</p>	<p>Noted.</p> <p>Noted.</p>
Lochaber Beekeepers	Guidance notes now much clearer, both in presentation and wording	Noted with thanks.
Scotch Whisky Association (SWA)	<p>SWA expressed concern about the wording used in Directive 2007/68, which the SI implements, in respect of the derogation for use of cereals/whey/nuts.</p> <p>SWA argue that the wording of the Directive, "<i>Cereals/whey/nuts - used for making distillates or ethyl alcohol of agricultural origin for spirit drinks or other alcoholic beverages</i>", differs from the wording of "cereals/whey/nuts used in distillates for spirits" that was set out in the temporary exemptions Directive 2005/26. The new wording is seen to be limiting, given the EFSA agreement to the conclusions in the CEPS dossiers.</p> <p>In Directive 2007/68 the scope of the exemption is limited to distillate or ethyl alcohol of agricultural origin when it is used for spirit drinks or other alcoholic beverages. The scope of the CEPS dossiers, however, is broader in that it does not restrict the use of the distillate to the spirit drink/alcoholic beverage sector. The CEPS studies demonstrated that it was the process of distillation which removed the allergenic proteins. Therefore, it would be more appropriate to apply the exemption to all such distillates and not just those that end up in potable beverages.</p>	<p>Noted. National legislation has to mirror the wording in the Directive.</p> <p>This issue should be taken up with the European Commission and could be raised in the context of the proposal for an EU Food Information Regulation that was published in January 2008.</p>
Trading Standards South East (TSSE) Food Group	<p>The comments from TSSE focused on the clarity of the guidance, suggesting a number of areas requiring change.</p> <p>Paragraphs 4-9 provide useful and important information but they need to be related to be more specifically to allergens.</p>	<p>Noted with thanks, will reconsider the wording of the paragraphs highlighted.</p> <p>These guidance notes are more wide ranging than just the allergen labelling provisions</p>

	<p>A particular issue was raised in the Partnership regarding Spelt. German producers are using Spelt as a wheat alternative in Germany and are being permitted to market their products as wheat free. The Guidance, however, considers Spelt not to be a permitted wheat alternative. The Partnership felt this issue needs to be clarified, so a consistent approach is taken across Europe, or issues will arise regarding freedom of trade.</p>	<p>and much of the area covered in these paragraphs deal with these other topics.</p> <p>Spelt is a variety of wheat and therefore should not be marketed as wheat free. This issue will be raised with the European Commission.</p>
Vega	<p>With regard to ingredients used in alcoholic drinks manufacturing, we believe that the industry currently enjoys a large degree of exemption in non-declaration of ingredients, compared with the food industry. VEGA therefore believe that declaration of ingredients on account of their allergenic potential should be part of a trend towards greater requirement for ingredients labelling for alcoholic drinks.</p> <p>We support option 2.</p>	Noted.
Unilever	<p>No comments on draft regulations but suggests that paragraph 70 of the guidance notes which is about the labelling of ingredients made from soya oil requires clarification.</p>	Noted with thanks, will reconsider the wording of paragraph 70.
Gill Ward	No comments.	
Anonymous	<p><b>Impact Assessment</b></p> <ul style="list-style-type: none"> <li>• Rationale for Government Intervention says that “The new regulations will clarify which foods are, and which foods are not allergenic and increase the foods available to allergic customers.” Good idea, but not everyone has allergic reactions to the list of allergenic foods. This list label will not help people with other food allergies.</li> <li>• Are all manufacturers aware of the small traces of allergens that can cause severe allergic reactions?</li> </ul> <p>• Concerned some exemptions from allergen labelling could still cause allergic reactions in some people who will assume they are safe because of the changes.</p>	<p>The list of foods in the annex is based on the most prevalent allergens within the European Community as a whole.</p> <p>The FSA has produced best practice guidance for manufacturers which explains the effects of food allergy.</p> <p>Decisions on exemptions were made on the basis of advice from the European Food Safety Authority</p>

	<b>Guidance Notes &amp; Best Practice &amp; Miscellaneous Labelling Provisions</b> <ul style="list-style-type: none"><li>• Made a number of comments seeking clarification of certain aspects of the guidance.</li></ul>	Noted with thanks, will reconsider the wording.
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