

# **Summary of stakeholder responses: Proposed changes to national (England only) law in relation to EU Directives on food contact materials, extraction solvents, and animal feed.**

This consultation aimed to seek stakeholders' views, comments, and feedback on the proposals to correct deficiencies in national (England only) legislation relating to food contact materials, extraction solvents, and animal feed.

## **Summary of stakeholder responses**

This consultation was issued on 13 July 2022 and closed on 10 August 2022.

The consultation aimed to seek stakeholders' views, comments, and feedback on the proposals to correct deficiencies in national (England only) legislation relating to food contact materials, extraction solvents, and animal feed, separately, to ensure the legislation continues to operate effectively following the UK's exit from the European Union.

The key proposals on which the consultation sought views were:

### **Food Contact Materials**

- to set out the full list of permitted substances in coated and uncoated regenerated cellulose film (RCF) within the Materials and Articles in Contact with Food (England) Regulation 2012
- to remove cross-references to Council Directive 2007/42/EC, including to its Annexes, within the Materials and Articles in Contact with Food (England) Regulations 2012.

### **Extraction Solvents**

- to set out the list of permitted extraction solvents in its entirety in the Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013, removing the cross-references to Annex I to the Directive
- to remove other cross-references in the 2013 Regulations to the Directive which are no longer appropriate or which contain inoperabilities as a result of EU exit, for example the reference to Article 3(c) of, the Directive.

### **Animal Feed**

- to allow amendments to the lists of undesirable substances prescribed in Directive 2002/32/EC, and to adapt them to scientific and technical developments, we propose incorporating these lists into the Animal Feed (Composition, Marketing and Use) (England) Regulations 2015, the retaining of controls set out in the Directive, and the adjustment of cross references from this legislation to the Directive. As part of this we will consider converting powers conferred by the Directive into domestic powers

- to allow the future modification of the category list in Directive 82/475/EEC we propose incorporating the list into the Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 and the adjustment of cross-references from this legislation to the Directive.

The consultation covered proposed changes to the Statutory Instruments in England only. Similar changes are being proposed for the Welsh and Scottish national legislation, with separate consultations being launched.

The consultation was published on the Food Standards Agency (FSA) website, circulated directly to enforcement and local authorities, and directly emailed to the relevant stakeholders. The FSA consultation page received approximately 773 visitors and the consultation details (pdf) were accessed 245 times.

The consultation received 12 responses. These were split across animal feed (4), Food contact materials (2) and extraction solvents (6). Responses were sent directly to the email addresses of each Policy lead.

The FSA is grateful to those stakeholders who responded and sets out in the table below responses in order of the questions considered across each regime. The FSA's considered responses to stakeholders' comments are given in the last column of the tables.

Responses to each subject area can be found:

- [Food Contact Materials](#)
- [Extraction Solvents](#)
- [Animal Feed](#)

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

## Summary of substantive comments

### Food Contact Materials

**Question 1 – Do you agree that a full incorporation of Annex II of Council Directive 2007/42/EC into national legislation would provide ease of reference for enforcement authorities, industry and the public? If not, please explain why.**

Respondent	Comment	Response
Norfolk County Council Trading Standards	Yes, any consolidation of legislation will make it easier for enforcement bodies as it is more efficient to look at legislation all in one place rather than having to switch between differing pieces of legislation – some of the legislation especially the European legislation is not always very easy to find. The proposed changes will provide clarity.	Noted.

Respondent	Comment	Response
City of London Corporation [response received after deadline but included to capture breadth of responses]	Yes.	Noted.

**Question 2 - Are you aware with the familiarisation cost that has been identified? If not, please explain why.**

Respondent	Comment	Response
Norfolk County Council Trading Standards	From what I can see the consultation talks about familiarisation costs without giving a figure.	The familiarisation costs are outlined under the costs and benefits section.
City of London Corporation [response received after deadline but included to capture breadth of responses]	Yes.	Noted.

**Question 3 - Do you agree with the familiarisation cost that has been identified? If not, please explain why.**

Respondent	Comment	Response
Norfolk County Council Trading Standards	Although there are no figures mentioned any cost to a local food authority would be in terms of familiarising ourselves with any changes. The legislation , to be honest, has little impact on day-to-day food enforcement work as it is a niche subject area	
City of London Corporation [response received after deadline but included to capture breadth of responses]	Yes.	Noted.

**Question 4 - Are there any other changes that would help to provide greater clarity on regulating the use of substances for the production of food contact regenerated cellulose films? If yes, please explain what these are, and what benefits they might provide.**

Respondent	Comment	Response
Norfolk County Council Trading Standards	No , I think if the relevant information is all put in one place this will provide greater clarity.	
City of London Corporation [response received after deadline but included to capture breadth of responses]	N/A.	Noted.

## Extraction Solvents

**Question 1- Do you agree that a full incorporation of Annex I of Directive 2009/32/EC into national legislation would provide ease of reference for enforcement authorities, industry and the public? If not, please explain why.**

Respondent	Comment	Response
Norfolk County Council Trading Standards	Yes, any consolidation of legislation and removal of out-of-date references is always useful to enforcement authorities who must navigate the legislation. It will provide clarity in reading.	Noted.

Respondent	Comment	Response
Volac International Limited	<p>This has the potential to provide ease of reference, but only if the national legislation is kept up to date on legislation.gov.uk. [...]</p> <p>The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013 is available in revised version, but there are outstanding changes not yet incorporated into the revised version. Regulatory professional dealing with legislation in the EU market are used to having a consolidated version of legislation available on EUR-Lex as soon as any change comes into effect. I realise this is the gold standard, but it is what we are used to and until this is matched for national legislation it will be considered less reliable and less easy to use.</p>	<p>Noted.</p> <p>We appreciate the need to ensure the legislation is updated in a timely manner and the FSA will flag this to National Archive (who update the relevant website) and stress the importance of amendments to national law being promptly available on the legislation.gov.uk website.</p> <p>At present, there are two way you can access the most up to date version of the legislation. When accessing The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013 on legislation.gov.uk, click 'latest available (Revised)'. When viewing each regulation, you will see a red banner that can be clicked to view outstanding changes. This will give you a list of changes made by and/or affecting the legislation that have not yet been applied to the text of the legislation. In addition, a 'more resources' tab is available where essential accompanying documents for this legislative item can be accessed. The documents include a list of changes made by and affecting the legislation that have not yet been applied to the text of the legislation.</p>
UK Flavour Association	<p>The UK Flavour Association fully supports the incorporation of existing levels into UK law.</p>	<p>Noted.</p>

Respondent	Comment	Response
British Soft Drinks Association	We would agree with the proposal to incorporate the lists of extraction solvents, as currently held in Annex I of EU Directive 2009/32/EC, into national legislation. It will simplify access if it is in the same place as the rest of the requirements for extraction solvents and it will be easier to follow any updates to the list.	Noted.
Council for Responsible Nutrition UK (CRN UK)	CRN UK supports the full incorporation of Annex I of Directive 2009/32/EC into national legislation, as we agree that this will provide ease of reference for all relevant stakeholders.	Noted.
City of London Corporation [response received after deadline but included to capture breadth of responses]	Yes	Noted.

**Question 2- Are you aware of any impacts of the proposed measures that have not been identified in this consultation?**

Respondents	Comment	Response
Norfolk City Council Trading Standards	No- the proposed measures seems to be merely “tidying up” some errors in the legislation- technical wording and the like.	Noted
British Soft Drinks Association	No	Noted

<b>Respondents</b>	<b>Comment</b>	<b>Response</b>
Council for Responsible Nutrition UK (CRN UK)	CRN UK is not aware of any impacts of the proposed measures not already identified within the consultation document.	Noted
City of London Corporation [response received after deadline but included to capture breadth of responses]	No	Noted

**Question 3-Do you agree with the familiarisation cost that has been identified? If not, please explain why.**

<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
Norfolk County Council Trading Standards	Just simplifying it as much as possible.	Noted
British Soft Drinks Association	We are not currently aware of any other changes that would help.	Noted

Respondent	Comment	Response
<p>Council for Responsible Nutrition UK</p>	<p>There is an area where greater clarity could be provided, either directly within the legislative text or in accompanying guidance, which relates to the exemption for extraction solvents used in the production of food additives, vitamins and other nutritional additives.</p> <p>Part 3 Regulation 10 of The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013 states the following: “The provisions of this Part do not apply to any extraction solvent — (a) used in the production of any food additives, vitamins or any other nutritional additives, unless such food additives, vitamins or other nutritional additives are listed in Annex I” Annex I does not include any entries specifically referencing food additives, vitamins or any other nutritional additives. However, it does include two entries (methanol and propan-2-ol) where the conditions of use state ‘For all uses’.</p> <p>Based on questions we have received, clarification is required either in the legislative text or in accompanying guidance as to whether ‘for all uses’ refers to any foods except for those which are exempted under Part 3 Regulation 10 (i.e. “food additives, vitamins or other nutritional additives”), as these are not specifically listed, or whether ‘for all uses’ also includes these types of ingredients.</p>	<p>Noted – as this is not considered a deficiency as a result of EU Exit, we will clarify this separately.</p>
<p>City of London Corporation [response received after deadline but included to capture breadth of responses]</p>	<p>Not applicable.</p>	<p>Noted.</p>

## Animal feed

**Question 1 - Do you agree that incorporating the Annex of Directive 82/475/EEC into national legislation would provide ease of reference for enforcement authorities, industry and the public? If not, please explain why.**



Respondents	Comment	Response
City of London Corporation	Yes agree	Noted
ABN	Yes	Noted
Connolly's Red Mills	<p>In principle, I would agree that consolidation of the information and the prompt maintenance of these lists and documents are important. This is especially true where the UK and EU lists start to deviate as it then has impacts into common products and formulations that may no longer be compliant in both markets at the same time. It is therefore imperative that the changes include a simple and low cost mechanism for maintaining common inclusions between the UK and EU lists (this is especially true for 3rd countries that respect the EU listing and allow such ingredients on a “nod through”). It is also important to allow for companies to continue to make ingredients available in the UK and not be put off by high or burdensome costs or requirements (as is already being seen with biocides). I would also recommend that the Feed Materials Catalogue (EU Regulation 68/2013) is consolidated in a similar and consolidated location.</p> <p>I note that in the case of Titanium Dioxide, I understand that many UK companies have already withdrawn it from their products, despite the fact that it remains authorised in the UK, to allow them to maintain common formulations with products sold in the EU/exported to 3rd countries.</p>	Noted

Respondents	Comment	Response
<p data-bbox="199 1391 363 1458">Volac International</p>	<p data-bbox="448 958 1098 1653">In principle, I would agree that consolidation of the information and the prompt maintenance of these lists and documents are important. This is especially true where the UK and EU lists start to deviate as it then has impacts into common products and formulations that may no longer be compliant in both markets at the same time. It is therefore imperative that the changes include a simple and low cost mechanism for maintaining common inclusions between the UK and EU lists (this is especially true for 3rd countries that respect the EU listing and allow such ingredients on a “nod through”. It is also important to allow for companies to continue to make ingredients available in the UK and not be put off by high or burdensome costs or requirements (as is already being seen with biocides). I would also recommend that the Feed Materials Catalogue (EU Regulation 68/2013) is consolidated in a similar and consolidated location.</p> <p data-bbox="448 1688 1102 1895">I note that in the case of Titanium Dioxide, I understand that many UK companies have already withdrawn it from their products, despite the fact that it remains authorised in the UK, to allow them to maintain common formulations with products sold in the EU/exported to 3rd countries.</p>	<p data-bbox="1161 219 1394 880">Noted. We appreciate the need to ensure the legislation is updated in a timely manner and the FSA will flag this to National Archive (who update the relevant website) and stress the importance of amendments to national law being promptly available on the legislation.gov.uk website.</p> <p data-bbox="1161 887 1394 2240">At present, there are two ways you can access the most up to date version of the legislation. When accessing The Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 on legislation.gov.uk, click 'latest available (Revised)'. When viewing each regulation, you will see a red banner that can be clicked to view outstanding changes. This will give you a list of changes made by and/or affecting the legislation that have not yet been applied to the text of the legislation. In addition, a 'more resources' tab is available where essential accompanying documents for this legislative</p>

**Question 2 - Do you agree that incorporating the Annexes of Directive 2002/32/EC into national legislation would provide ease of reference for enforcement authorities, industry and the public? If not, please explain why.**

Respondent	Comment	Response
City of London Corporation	Yes, agree. Reducing the amount of different pieces of legislation will assist all interested parties and having the ability to amend the legislation as necessary.	Noted
ABN	Yes	Noted

**Question 3 - Are you aware of any impacts of the proposed measures that have not been identified in this consultation?**

Respondent	Comment	Response
City of London Corporation	Being able to amend the Annexes of Directive 2002/32/EC could mean that the maximum permitted levels would no longer align with the EU set limits. This could have an impact on imports/exports but the annex does need to be modifiable.	Noted
ABN	No	Noted

Respondent	Comment	Response
Volac International Ltd	<p>We require our suppliers to provide declarations of compliance and our customers require us to do the same. Currently declarations for GB and EU tend to be the same, because they mainly refer to legislation which is EU/retained EU legislation, and they don't make any distinction between the two.</p> <p>Generally compliance with EU will ensure compliance with retained EU legislation, since where limits have changed they are tighter in EU legislation. These declarations will have to be revised to specifically refer to different legislation for the GB market. There will be significantly more time spent by procurement teams and customer technical teams dealing with revising documentation than is identified in your consultation document. I accept this is an inevitable consequence, but it should be identified and quantified as a cost.</p>	<p>The FSA recognises that some feed businesses provide declarations of compliance and that these declarations may require updating when the lists in Directive 2002/32/EC are incorporated into domestic legislation. Quantifying amendments to compliance declarations are out of scope of the business impact target (BIT) assessment. Amendments to compliance declarations would be considered as commercial costs as there is no legislative requirement to provide these declarations. In addition, some feed businesses undertaking this practice may not need to revise documentation as they may be using generic terminology on their declaration templates without referencing specific legislation.</p>

**Question 4 - Do you agree with the familiarisation cost that has been identified? If not, please explain why.**

Respondent	Comment	Response
City of London Corporation	Yes agree	Noted
ABN	Yes	Noted

Respondent	Comment	Response
Connolly's Red Mills	I believe that the costs may be higher than that listed, as the time will be required to become familiar with the new presentation of the information and confirm no changes to the status of the ingredients etc has been inadvertently introduced. This can also include confirmation and checking when multiple names of materials may requiring cross checking.	We do not anticipate significantly changing the presentation of the information and no changes will be made to the lists being transferred.

**Question 5 - Are there any other changes that would help to provide greater clarity on regulating the presence of undesirable substances in animal feed? If yes, please explain what these are, and what benefits they might provide.**

Respondent	Comment	Response
ABN	Yes - That regulations are consolidated into one location and where possible search facilities are available to locate all associated limits concerning the undesirable being searched. This would make it easier to locate the appropriate information and control FS risks.	Noted
Connolly's Red Mills	I believe this would be extremely difficult as it may also be dependent on the species in question and if the animal is Food-Producing or not. It is also important to consider levels of naturally occurring impurities in fodder/pasture/ground water etc that could also have an impact. Therefore care should be taken to prevent accidental or inadvertent issues with a too restrictive or mandated approach.	Noted

**Question 6 - Are there any other changes that would help to provide greater clarity on regulating the use of category labelling on pet food? If yes, please explain what these are, and what benefits they might provide.**

Respondent	Comment	Response
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<p>Connolly's Red Mills</p>	<p>Noting that many companies would wish to consider a single packaging for a common formulation for multiple countries sharing a common language, or to use poly-lingual labels. It is important to consider that shifting to a labelling environment too dissimilar from that of the EU would add extra costs to those companies.</p> <p>Overall, while there is an opportunity to make changes to the legislation, I believe care is required to prevent inadvertent or accidental additional costs to companies and/or result in situations where the companies find it is no longer cost effective to look to export markets.</p>	<p>Noted</p>
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## **Actions to be implemented**

- the FSA will contact the National Archives to raise the importance of updating legislation in a timely manner
- for the three regimes of food contact materials, extraction solvents, and animal feed the FSA considers that the responses received sufficiently demonstrates support for the proposed actions detailed within the consultation
- these responses will feed into the FSAs recommendation to Ministers that the proposals are enacted and the relevant legislation passed.

## **List of respondents**

1. Norfolk County Council Trading Standards
2. Connolly's Red Mills
3. UK Flavour Association (UKFA)
4. British Soft Drinks Association (BSDA)
5. Volac International Limited
6. Council for Responsible Nutrition UK (CRN UK)
7. ABN
8. City of London Corporation.