

# Statement about updating content produced before the end of the EU transition or while the UK was in the EU

From 1 January 2021, we will be updating references to EU law, systems and institutions in our content. We are committed to having in place a robust and effective regulatory regime which will mean business can continue as normal.

## EU law has been converted into UK law??

The [European Union \(Withdrawal\) Act 2018](#) (the 'EUWA') as amended converted directly applicable EU legislation (in particular, EU Regulations and Decisions) as it stood at the end of the transition period (11pm on 31 December 2020) into domestic law. It preserves legislation previously made in the UK to implement EU obligations.

The legislation generally has the same effect that it had before the end of the transition, unless or until it is changed by Parliament. Some has been amended by statutory instruments (SIs) made under the EUWA. This is because the EUWA created powers to make secondary legislation to correct deficiencies in 'retained EU law' to ensure that the legislation worked properly at the end of transition.

## Northern Ireland

In Northern Ireland, EU law continues to apply from 1 January 2021 in respect of the majority of food and feed hygiene law, as listed in the [Northern Ireland Protocol](#), and retained EU law does not apply to Northern Ireland in those circumstances.

## Retained EU law

To search for retained EU law, visit [www.legislation.gov.uk](http://www.legislation.gov.uk) and use the 'All UK Legislation (including originating from the EU)' search option. We will update relevant references and links in our content.

The [EU Exit Web Archive](#) is where you will find versions of EU legislation from EUR-Lex as they stood at the end of the transition period.

## FSA EU Exit statutory instruments

A full list of our EU Exit statutory instruments (SIs) to fix inoperabilities in retained EU law for food and feed safety and hygiene can be found below.

These UK-wide SIs ensure that the retained EU law operates in Great Britain, they also include the England national enforcement corrections to ensure that the current England-only enforcement regulations continue to work properly with the retained EU law. Wales and Scotland have produced their own national SIs to ensure that their national enforcement regulations continue to work properly with the retained EU law.

## Northern Ireland

Northern Ireland has taken forward amendments to Northern Ireland domestic legislation to reflect that EU law continues to apply in Northern Ireland in respect of food and feed safety and hygiene, food compositional standards and food labelling within the FSA's policy remit in Northern Ireland.

### [The Food \(Miscellaneous Amendments etc.\) \(EU Exit\) Regulations \(Northern Ireland\) 2020](#)

amends the Food Hygiene Regulations (Northern Ireland) 2006 and the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015.

Made legislation:

- [The Food Additives, Flavourings, Enzymes and Extraction Solvents \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)
- [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#)
- [The General Food Law \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)
- [The General Food Hygiene \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Specific Food Hygiene \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)
- [The Contaminants in Food \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Quick-Frozen Foodstuffs \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Food and Feed \(Maximum Permitted Levels of Radioactive Contamination\) \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Genetically Modified Food and Feed \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)
- [The Official Controls for Feed, Food and Animal Health and Welfare \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)
- [The Food and Feed Imports \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Materials and Articles in Contact with Food \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Food and Feed \(Chernobyl and Fukushima Restrictions\) \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Sprouts and Seeds \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Animal Feed \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Novel Food \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Specific Food Hygiene \(Regulation \(EC\) No. 853/2004\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

The above made SIs follow on from our [consultation on a proposed approach to retained EU law for food and feed safety and hygiene](#) and our [consultation on further amendments](#) required to support the implementation of the Northern Ireland Protocol (NIP) and ensure the legislation was appropriate for the end of the transition period.

## Defra and other government departments' EU (Withdrawal Agreement) Act Statutory Instruments

The Ministry of Housing, Communities and Local Government has [published a list of statutory instruments](#) which have been laid and identified as having impacts on local authorities. Some of these statutory instruments are included in the legislation examples below. Some of these statutory instruments are included in the legislation examples section below.

## Changing EU references to UK law, institutions, systems and processes

## Great Britain

The FSA must ensure that all guidance documents and material that it produces as part of its role as the central competent authority, and which has legal implications for the delivery of official controls generally, includes the correct referencing to UK law (as well as relevant EU law, in respect of Northern Ireland) and all relevant functions, systems and institutions.

This means we will correct any references to the EU, institutions, systems and processes that the UK in respect of Great Britain will no longer rely on.

## Northern Ireland

The FSA must ensure that all guidance documents and material that it produces as part of its role as the central competent authority and which has legal implications for the delivery of official controls generally, includes the correct referencing to EU law in respect of Northern Ireland. FSA guidance will continue to 'keep pace' with any future developments in relevant EU law for Northern Ireland purposes.

We are prioritising those matters that must be changed to enable all food enforcement authorities to enforce the law from day one. This will include:

- certification and prescribed legal forms used by enforcement authorities
- [the system used to notify UK authorities about high-risk food and feed products from the EU](#)
- [health and identification marks on products of animal origin, such as meat, egg products, fish, cheese and milk](#)

Also, from 1 January 2021, the FSA and Food Standards Scotland will be responsible for many of the functions previously carried out by the European Commission and the European Food Safety Authority. Read more about the [food and animal feed safety risk analysis process from 1 January 2021](#). This change means references to the European Food Safety Authority and other EU institutions are replaced with references to the FSA, Food Standards Scotland and health ministers.

## Enforcement documentation

We will be updating enforcement documentation produced before the end of the EU transition or while the UK was in the EU.

The FSA must ensure that all guidance documents and material that it produces as part of our role as the central competent authority, and which has legal implications for the delivery of official controls generally, includes the correct referencing to UK law (as well as relevant EU law, in respect of Northern Ireland) and all relevant functions, systems and institutions.

We are prioritising those matters that must be changed to enable all food enforcement authorities to enforce the law from day one. This will include certification and prescribed legal forms used by enforcement authorities. Other references are being reviewed and prioritised and will be updated in due course.

## Northern Ireland

In Northern Ireland, EU law continues to apply from 1 January 2021 in respect of the majority of food and feed safety and hygiene, and food compositional standards and labelling law, as listed in

the [Northern Ireland Protocol](#), and retained EU law does not apply to Northern Ireland in those circumstances.

## Enforcement regulations

All domestic country-specific enforcement regulations continue to remain in force and provide the essential administrative provisions that authorised officers rely on, such as:

- powers of entry
- powers to serve formal notices
- offences
- penalties
- time limits to bring proceedings
- clarification on enforcement jurisdictions

## Other key messages

- The European Communities Act 1972 (ECA) was repealed on 31 January 2020 by The European Union (Withdrawal) Act 2018 (EUWA). However some ECA provisions were subsequently 'saved' by amendments made to the EUWA under [The European Union \(Withdrawal Agreement\) Act 2020](#).
- EU food and feed legislation in their consolidated versions will be incorporated into UK law from 1 January 2021.
- The titles of all retained EU food and feed safety and hygiene legislation remain unchanged.
- The FSA has produced [the Food and Feed Law Guide](#) as a reference tool for food and feed legislation applicable in England, Wales and Northern Ireland. The FSA tries to ensure that the information it contains is correct and complete at the time of publication, but the accuracy and completeness of the information provided is not guaranteed. The National Archives has a statutory duty to accurately publish the law which applies throughout the UK. You should refer to the National Archives ([legislation.gov.uk](http://legislation.gov.uk)) to verify the law as it applies from time-to-time.
- Various 'EU' terms (e.g. European Community, European Union, member states) have been removed and as they are no longer of relevance within the context of UK food law.
- The statutory instruments fixed inoperabilities contained within retained EU law and the respective domestic implementing regulations. See examples below.
- From 1 January 2021, when we publish new and amended guidance, we will aim to ensure that cross-references are updated to accurately reflect the law which is in force in the UK (Great Britain and Northern Ireland).?
- Local and port health authorities will need to determine how best to review their own guidance and documentation and amend it as required to reflect the changes in the law.

## Legislation examples

The following examples apply in England only. However, the same principles will apply to national food and feed legislation and to other related legislation that is the policy responsibility of Defra and the agricultural departments of the devolved administration in Wales and Scotland.

### Northern Ireland

In Northern Ireland, EU law continues to apply from 1 January 2021 (see above). EU rules continue to be enforced in Northern Ireland via the existing Northern Ireland national regulations, which include [The Food Hygiene Regulations \(Northern Ireland\) 2006](#), [The Official Food and](#)

[Feed Control Regulations \(Northern Ireland\) 2009](#) and [The General Food regulation \(Northern Ireland\) 2004](#).

## Wales

Welsh domestic legislation:

- [The Food and Feed Regulated Products \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019](#)
- [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019](#)
- [Food Standards and Labelling \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019](#)
- [The Food \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) \(No. 2\) Regulations 2019](#)
- [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Wales\) Regulations 2020](#)
- [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019](#)
- [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020](#)

## Food safety

The EU food safety regulation 'Regulation (EC) 178/2002' continues to be referred to as Regulation (EC) 178/2002. Corrections to this EU regulation and The Food Safety and Hygiene (England) Regulations 2013 (that allows for its enforcement in England) have been made through the fixing SI, The General Food Law (Amendment etc.) (EU Exit) Regulations 2019 and The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019. The same principle applies to Commission Implementing Regulation (EU) No 931/2011 on traceability.

The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019 also amends The Food Safety and Hygiene (England) Regulations 2013 to provide for a transitional provision in respect of the continued use, for a specified period, of historic stocks of labels, wrapping and packaging carrying the 'UK/EC' identification mark. [Read our guidance](#) here about what applies in Great Britain and Northern Ireland.

## Food hygiene

The EU hygiene regulations (listed below) continue to be enforced in England through the Food Safety and Hygiene (England) Regulations 2013:

- Regulation (EC) 852/2004
- Regulation (EC) 853/2004
- Commission Implementing Regulation (EU) 2015/1375
- Regulation (EC) 2073/2005

The Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 and The General Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019, as both amended by the Food and Feed Hygiene and Safety (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020, made various amendments to both the retained EU food hygiene legislation and its domestic enforcing regulations to allow them to remain operable within the UK in respect of Great Britain.

Regulation (EU) 2017/625 and other relevant legislation elements, in so far as it and they relate to food, continue to have the same titles. The elements that used to be contained in Regulation (EC) 854/2004 (e.g. Regulation (EU) 2019/627) continue to be enforced through the Food Safety and Hygiene (England) Regulations 2013.

## **Official controls**

The elements of Regulation (EU) 2017/625 that used to be contained in Regulation (EC) 882/2004 are enforced through [The Official Feed and Food Controls \(England\) Regulations 2009](#) as amended by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments etc.\) \(EU Exit\) Regulations 2020](#) and [The Official Feed and Food Controls \(England\) \(Miscellaneous Amendments\) Regulations 2019](#).

The following regulations made various amendments to the official controls package of legislation and its domestic implementing legislation to allow them to remain operable within the UK:

- [The Official Controls \(Animals, Feed and Food, Plant Health etc.\) \(Amendment\) \(EU Exit\) Regulations 2020](#)
- [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments etc.\) \(EU Exit\) Regulations 2020](#)
- [The Official Controls \(Animals, Feed and Food, Plant Health etc.\) \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2020](#)

## **TSE**

Regulation (EC) 999/2001 continues to be enforced through The Transmissible Spongiform Encephalopathies (England) Regulations 2018. Regulation (EC) 999/2001 as amended by The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019, that made the appropriate changes required for the legislation to continue to operate post exit.

## **Food additives**

Regulation (EC) No 1333/2008 on food additives, and Regulation (EU) No 234/2011 and Regulation (EC) No 1331/2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings, continues to be enforced through The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013. The situation is the same for similar EU derived legislation on flavourings and enzymes.

All retained EU legislation and its domestic enforcing regulation was amended by The Food Additives, Flavourings, Enzymes and Extraction Solvents (Amendment etc.) (EU Exit) Regulations 2019 as amended by the Food and Feed Hygiene and Safety (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020, which removed references to EU institutions such as the European Food Safety Authority and the Commission and replace them with appropriate UK entities. All food additives authorised prior to the end of the transition period may continue to be used in line with the specifications and conditions of use specified in the retained EU law.

From 1 January 2021, [applications for new additives, flavourings and enzymes will be managed within the UK by the FSA and FSS](#), who will for example be responsible for ensuring the

appropriate risk assessment is undertaken and advice provided on whether a new substance is safe and may be added to a list of approved substances. However, it will be for the appropriate authority as designated, to take the final risk management decision on whether to authorise or not.

## **Contaminants in food**

Council Regulation (EEC) No. 315/93 laying down Community procedures for contaminants in food and Commission Regulation (EC) No 1881/2006, setting maximum levels for certain contaminants in foodstuffs, The Contaminants in Food (Amendment) (EU Exit) Regulations 2019 as amended by the Food and Feed Hygiene and Safety (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 corrected inoperabilities within retained EU contaminants legislation to reflect that risk assessments and risk management decisions will be undertaken within the UK.

## **Animal feed legislation**

All pieces of EU animal feed legislation (selected list below) continue to be enforced through existing domestic implementing regulations:

- Regulation (EC) No 1831/2003 (making provisions for additives for use in animal nutrition)
- Regulation (EC) No 1831/2003 (making provisions for additives for use in animal nutrition)
- Regulation (EC) No 767/2009 (controlling the placing on the market and use of feed)
- Regulation (EU) No 68/2013 (cataloguing feed materials)
- legislation providing authorisation of all the individual feed additives in place at the time of the end of the transition period

The Animal Feed (Amendment) (EU Exit) Regulations 2019 as amended by the Food and Feed Hygiene and Safety (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 made the appropriate changes required for the feed legislation above to continue to operate from 1 January 2021.