

Number: WG37901



Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

## Proposed amendments to Welsh Food Legislation

Date of issue: 20 May 2019  
Action required: 28 June 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

<b>Overview</b>	<p>This consultation concerns amendments the Welsh Ministers propose to make to:</p> <ul style="list-style-type: none"><li>• The Food Information (Wales) Regulations 2014</li><li>• The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009.</li></ul>
<b>How to respond</b>	<p><b>Online</b></p> <p>The consultation document can be accessed from the Welsh Government's website at:</p> <p>beta.gov.wales/consultations</p> <p><b>Write to us:</b> Food Division Welsh Government Llandrindod Wells Spa Road (East) Powys LD1 5HH</p>
<b>Further information and related documents</b>	<p><b>Large print, Braille and alternative language versions of this document are available on request.</b></p> <p>Mae'r ddogfen yma hefyd ar gael yn Gymraeg / This document is also available in Welsh</p>
<b>Contact details</b>	<p>For further information:</p> <p><a href="mailto:FoodEUExitConsultation@gov.wales">FoodEUExitConsultation@gov.wales</a> <a href="mailto:YmgynghoriadBwydYmadaelArUE@llyw.cymru">YmgynghoriadBwydYmadaelArUE@llyw.cymru</a></p> <p>email: tim.mchugh@gov.wales</p> <p>telephone: 03000258281</p>

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

e-mail:

[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113

Website: <https://ico.org.uk/>

## **DETAIL OF CONSULTATION**

### **What is the subject of this consultation?**

This consultation sets out details of the Welsh Government's proposals to amend the Food Information (Wales) Regulations 2014 ("FIR") and the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009.

The proposed amendments are designed to help businesses adapt to possible changes in labelling requirements arising from our exit from the European Union (EU). These changes in labelling requirements specifically relate to:

- Protected Food Name (PFN) and Geographical Indicator (GI) products;
- wine products; and
- mixed fruit and vegetable produce originating from more than one country.

There is a need to help businesses that may be affected by these changes to manage their existing stocks of produce and to consider produce already placed on the market prior to our exit from the EU.

In response, the Welsh Government is proposing to allow transitional periods, from the date of exit for a reasonable time, for compliance with the new labelling requirements.

The Welsh Ministers consider these amendments necessary to ensure the legislative framework fully supports our exit from the European Union (EU).

This consultation document has been prepared by the Welsh Government and applies to Wales only.

### **What is the purpose of this consultation?**

To seek the views of existing EU PFN and GI Scheme award holders; enforcement authorities; horticultural producers; consumer groups; other stakeholders and the wider public on the amendments proposed by the Welsh Ministers.

### **Who will this consultation be of most interest to?**

The proposed changes will be particularly relevant to food and drink producers who are currently EU PFN or GI award holders, wine producers, certain horticultural producers, food law enforcement officers and consumer groups.

This consultation may also be of interest to other non-government organisations with an interest in food related legislation.

# **1. The Food Information (Wales) Regulations 2014**

## **Introduction**

The Welsh Government is currently working with the UK Government and the other Devolved Administrations to establish a new UK PFN/GI Scheme to be in operation after exit day.

This is because after the UK withdraws from the EU we will no longer have the right to access the EU PFN/GI Scheme as a Member State. On establishment of the new Scheme existing EU PFN/GI holders will automatically be given protection and will be required to use the new UK Scheme logos.

To help businesses affected by this change manage their existing stocks of labels depicting EU logos, the Welsh Government is proposing to allow a transitional period from the date of exit until a reasonable time in the future for compliance with the new requirements and logos. To allow for this proposed transition period, minor changes will be needed to the FIR.

## **Background to the Regulation**

The FIR make provision for the enforcement of Regulation (EU) 1169/2011 on the provision of Food Information to Consumers ("FIC").

The FIC sets out rules about specific information businesses need to communicate to consumers to ensure that they are fully informed about the food or drink produce they may choose to consume.

## **Background to Proposals**

The FIC currently includes a provision stating that food labels should not mislead consumers as to the characteristics of the food "in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production".

This means businesses that continue to use food labels that have not been changed to reflect the rules under the new UK PFN/GI Scheme could breach the FIR which could potentially be an offence.

The Welsh Government is proposing to insert a transitional provision into the FIR. The policy intention behind these proposals is that during the transitional period improvement notices could not be issued to businesses if their labels comply with the requirements that are in place immediately before the UK withdraws from the EU (i.e. exit day).

It is also proposed that an amendment be made which will allow wine producers to use up their existing stocks of wine labelling without being liable for new labelling requirements as a result of leaving the EU.

The Welsh Government understands that there are proposals to make similar changes to the equivalent domestic regulations applying in other UK regions, and so it is considered essential that producers in Wales benefit from the same measure of legislative support.

## **The Proposals**

It is intended that the proposed amendments allow

- existing stocks placed on the market prior to our exit from the EU to be exhausted;
- existing stocks of wine produce placed on the market after our exit from the EU to be exhausted; and
- all other PFN and GI produce placed on the market after our exit from the EU to benefit from this provision for a reasonable period of time, starting from the day after our day of exit.

## **2. The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009.**

### **Introduction**

Specific rules governing the marketing and labelling of mixed fruit and vegetable produce, where this produce originates from more than one country, are laid down in Article 7 of Regulation (EC) 543/2011. The purpose of these rules are to make labelling for such produce simple and practical by avoiding the individual naming of each country of origin.

To prepare for the possibility of leaving the EU on a 'no deal' basis, these requirements have been amended by the UK Government in the Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019. These amendments remove references to the EU and replace them with references to the UK.

For example, labels which currently state 'mix of non-EU fruit and vegetables' will be changed to 'mix of non-UK fruit and vegetables'.

This is because, if we leave the EU without a deal, categorising mixes of produce based on whether or not they originate from the EU will no longer be relevant.

### **Background to the Regulation**

The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009 make provision for the enforcement of marketing standards in the fresh fruit and vegetable sector.

This includes the enforcement of rules governing the information businesses need to provide on labelling and describes the powers given to enforcement officers where a failure to satisfy these rules has been identified.

### **Background to Proposals**

Under the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009, a person commits an offence where the information provided for horticultural produce gives an inaccurate or false description.

Enforcement officers are empowered to attach a 'labelling defect' notice to horticultural produce with incorrect labelling.

The Welsh Government is proposing that a transitional provision be inserted into the Regulations to provide sufficient flexibility and time for producers to adapt to the new rules in Article 7 of Regulation (EC) 543/2011, applying in the event of our exit from the EU without a deal.

It is proposed this provision be limited to produce affected by these new rules where this produce complies with the relevant requirements in place immediately before the UK withdraws from the EU (i.e. exit day).

## **The Proposals**

The proposed amendment will prevent offences from being committed under regulation 4 and will prevent enforcement action being instigated pursuant to paragraph 1 of regulation 11 of the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009.

To ensure consistency with proposals in the other UK regions, it is proposed that this transitional provision will cover produce affected by these labelling changes and placed on the market on or before 31 December 2020.

## **3. Impact**

### **Businesses:**

We assume that all registered food establishments are concerned with this area of legislation and will therefore have to invest in understanding the new legislation.

We envisage minimal one-off familiarisation costs to business; where we estimate that it will take businesses less than 30 minutes to read and understand the proposed amendments and then disseminate the information to key staff within their firm.

It is unlikely that the envisaged changes will present any other impact on businesses' day to day operations.

### **Enforcement Authorities:**

We estimate less than 30 minutes for each enforcement officer to familiarise themselves with the changes.

# **ENGAGEMENT AND CONSULTATION PROCESS**

## **Consultation Process**

A six week consultation is being launched to provide interested parties with the opportunity to comment on these proposals.

Any responses received as part of this consultation will be given careful consideration and a summary of the responses received may be published on our website.

## **Groups affected**

The proposed amendments to the FIR will be particularly relevant to food producers who are currently EU PFN or GI award holders; wine producers, certain horticultural producers and food law enforcement officers. The proposed amendments will also be of interest to consumers and consumer groups.

The Welsh Government is not conducting a full Impact Assessment as the proposed amendment is time limited, targets the interests of certain food and drink businesses, and mitigates a very specific impact arising from our exit from the EU.



# CONSULTATION RESPONSE FORM

Your name:

Organisation (if applicable):

Email / Telephone Number:

Your Address:

**Question 1:** Do you agree with the proposed amendments regarding the Regulations mentioned above?

Please enter here:

**Question 2:** Do you believe there is anything that could be changed or added to this proposed amendment to improve the positive impacts or mitigate any negative impacts?

Please enter here:

**Question 3:** Are there any additional points you would like to make regarding the proposed changes to these regulations?

Please enter here:

**Question 4:** We would like to know your views on any impacts these proposed amendments might have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

Please enter here:

**Question 5:** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please state here:

## **Responding to the Consultation**

We appreciate you taking the time to read and respond to this consultation.

Please be aware that responses are required by 28 June 2019.

Any responses received after this time will not be included in the analysis of the consultation responses. If you are responding on behalf of an organisation we ask for your name and the organisation's name. However, you have the option to remain anonymous if you wish.

Please refer to the General Data Protection Regulation (GDPR) section for further information about how this is used.

Thank you on behalf of the Welsh Government for participating in this public consultation.