



Notification Number: 2013/394/UK

## The draft Food Information Regulations 2013 The draft Food Information Regulations (Northern Ireland) 2013 The draft Food Information (Scotland) Regulations 2013 The draft Food Information (Wales) Regulations 2013

Date received : 18/07/2013

End of Standstill : 21/10/2013

Issue of comments by : Commission

### Message

Message 001

Communication from the Commission - TRIS/(2013) 01867

Directive 98/34/EC

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notification - Notifica - Pieteikums - Pranešimas - Bejelentés - Notifika - Kennisgeving - Zawiadomienie - Notificação - Hlásenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2013/0394/UK - Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201301867.EN)

#### 1. Structured Information Line

MSG 001 IND 2013 0394 UK EN 18-07-2013 UK NOTIF

#### 2. Member State

UK

#### 3. Department Responsible

Department for Business, Innovation and Skills

Knowledge and Innovation Group

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### 3. Originating Department

Department for Environment, Food and Rural Affairs (Defra) and Food Standards Agency

### 4. Notification Number

2013/0394/UK - C50A

### 5. Title

The draft Food Information Regulations 2013  
The draft Food Information Regulations (Northern Ireland) 2013  
The draft Food Information (Scotland) Regulations 2013  
The draft Food Information (Wales) Regulations 2013

### 6. Products Concerned

1. Notification of a proposed national measure (to be made in reliance of the power contained in Article 44.2 of Regulation (EU) No 1169/2011) that would allow food allergen information relating to foods sold non-prepacked, foods packed on sales premises at the consumer's request or pre-packed for direct sale (in this notification called 'NPP foods') (including catering sales), to be provided in any manner that the food business operator may choose, including (subject to a restriction) orally.
2. Notification of a proposed national measure (to be made in reliance of the power contained in Article 44.1(b) of Regulation (EU) No 1169/2011) that will require the name of the food to be provided where food is sold non-prepacked.
3. Notification of a proposed national measure (to be made in reliance of the power contained in Article 44.1(b) of Regulation (EU) No 1169/2011) to require a Quantitative Ingredients Declaration in respect of the meat content of certain meat products sold non- prepacked.

### 7. Notification Under Another Act

- With the exception of the need to provide allergen information to consumers in respect of non-prepacked food, including catering, the mandatory information required by Regulation (EU) No 1169/2011 applies only to prepacked food.

Paragraph 1.(b) of Article 44 allows Member States to adopt national measures for non prepacked foods requiring the provision of some or all of the mandatory particulars set out in Articles 9 and 10.

### 8. Main Content

The respective sets of draft Food Information Regulations (the draft Regulations) provide for the execution and enforcement in England, Northern Ireland, Scotland and Wales of Regulation (EU) No 1169/2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004.

The draft Regulations also take advantage of derogations and make use of the flexibility to introduce certain national measures permitted by the EU Regulation.



The Food Labelling Regulations 1996 (as amended) in England, Scotland and Wales and equivalent Regulations in Northern Ireland, which implement existing EU legislation on food labelling, will be revoked and replaced by the four sets of Food Information Regulations 2013.

As provided for by Article 44.2 of Regulation (EU) No 1169/2011, the UK proposes to introduce national measures concerning the means by which allergen information for foods sold non-prepacked can be provided.

Regulation 5(3) of the draft Food Information Regulations 2013 (the FIR Regulations 2013), regulation 5(3) of the Food Information Regulations (Northern Ireland) 2013 (the FIR Northern Ireland Regulations), regulation 6(3) of the draft Food Information (Scotland) Regulations 2013 (the FIR Scotland Regulations) and regulation 5(3) of the Food Information (Wales) Regulations 2013 (the FIR Wales Regulations) cover foods that are not prepacked which contain an allergenic substance or product as listed in Annex II to (EU) No Regulation 1169/2011 or contain a substance or product derived from an Annex II substance or product. In relation to those foods, Regulation (EU) No 1169/2011 requires details to be provided about the relevant substance or product used in the manufacture or preparation of such food but Article 44.2 of the EU Regulation allows flexibility in how this information is to be provided. The UK is intending to allow the information to be provided by food business operators in any way they wish, including orally subject to conditions.

Where a food business operator intends to use oral means of providing details of allergenic ingredients used in non-prepackaged food, they must indicate in writing that details (of the Annex II substance) can be obtained by asking a member of staff. This indication must be provided on a label attached to the food or on a notice, menu, ticket or label that is readily discernible by the consumers at the place where they choose that food.

As provided for in Article 44.1(a), the UK proposes to introduce a national measure for England, Northern Ireland, Scotland and Wales to carry forward requirements to provide additional mandatory particulars in relation to the name of the product on non-prepacked food.

Regulation 6 of the FIR Regulations 2013, regulation 6 of the FIR Northern Ireland Regulations 2013, regulation 5 of the FIR Scotland Regulations 2013, and regulation 8 of FIR Wales Regulation 2013 cover foods that are not prepacked and foods that are prepacked for direct sale and require a Food Business Operator, who offers for sale a food to which this regulation applies at premises where sales are made to final consumers, to provide the name of the food.

As provided for in Article 44.1(b), the UK proposes to introduce a national measure for England, Northern Ireland, Scotland and Wales to retain mandatory requirements to provide Quantitative Ingredients Declarations (QUID) on the meat content of certain meat products sold non-prepacked. Currently, UK food labelling legislation applies the QUID requirements to prepacked food and specifically meat products when sold loose e.g. meat pies from a butcher's counter. As before, the national measure requiring a QUID in relation to the meat content of certain meat products will not apply to foods such as soup, pizzas, sandwiches and food sold from caterers.

Regulation 7 of the FIR Regulations 2013, regulation 7 of the FIR Northern Ireland Regulations 2013, regulation 7 of the FIR Scotland Regulations 2013, and regulation 7 of FIR Wales Regulations 2013 cover this proposal and relate to products containing meat and other ingredients for NPP foods, for which a QUID must be provided for the ingredients of the food that are meat.

## 9. Brief Statement of Grounds

The draft Regulations contain three proposed provisions relating to non-prepacked food:

i) Use of Article 44(2) power to introduce a national measure on the provision of allergen information for NPP foods. Regulation 5(3) of the FIR Regulations 2013, regulation 5(3) of the FIR Northern Ireland Regulations



2013, regulation 6(3) of the FIR Scotland Regulations 2013 and regulation 5 (3) of the FIR Wales Regulations 2013 cover foods that are not prepacked which contain an allergenic substance or product as an ingredient as listed in Annex II to Regulation (EU) No 1169/2011. Information has to be provided on the use as an ingredient or processing aid of any food specified in the Annex list of allergenic foods but Article 44(2) of the EU Regulation allows Member States flexibility in how this is to be provided. The UK intends to allow the information to be provided in any manner chosen by a food business operator, including orally, with a number of conditions.

The provisions of the Regulation are necessary to give some flexibility in how the allergen information for foods sold non-prepacked is provided. The food service sector is very diverse and includes large catering chains, institutional catering, retailers selling non-prepacked foods (such as bakeries, sandwich shops and delicatessen counters) as well as very small businesses such as single restaurants and teashops. In some food businesses, menus change on a daily basis and certain prepared or part-prepared items are sourced from a number of different wholesalers. We recognise that in such situations, some SME businesses will face practical difficulties ensuring that written menus remain up-to-date and accurate regarding the allergenic ingredients used in the product. For this reason we are proposing that there should be sufficient flexibility to allow businesses to choose to provide allergen ingredient information orally via members of staff. However businesses adopting this approach will need to ensure that there is a written notice that is clearly visible at the point that the customer chooses their food saying that allergen information is available from a member of staff. Operators will need to make sure that they have processes in place to ensure that staff are able to provide accurate, complete and verifiable allergen ingredient information.

ii) Use of Article 44.1(b) power to introduce a national measure requiring the provision of additional mandatory particulars in relation to the name of the product on non-prepacked food.

iii) Use of Article 44.1(b) power to introduce a national measure to retain mandatory requirements to provide Quantitative Ingredient Declarations (QUID) on the meat content/ingredient of meat products sold non-prepacked.

The food labelling legislation which implements the current EU Directives on food labelling and nutrition labelling in England, Northern Ireland, Scotland and Wales also contains mandatory consumer information requirements on non-prepacked food which have been previously notified and accepted by the Commission and other Member States.

Retaining a clear mandatory requirement to give 'the name of the food' supports informed consumer choice in the case of non-prepacked foods. We consider that the 'name of the food' is a basic piece of information to enable consumers to be informed about the product they are buying especially if the food is being sold loose (i.e. non-prepacked). Continuing the UK's mandatory name of food requirements for NPP foods will enable consumers to know the product's true nature and distinguish it from other loose products with which it might be confused. It also gives clarity to food businesses on the level of information they need to give consumers. In addition, maintaining all food labelling requirements within dedicated food labelling legislation rather than relying on existing unfair commercial practices / trading standards legislation will provide clarity for enforcement officers. It also fits with the European approach to place general food and nutrition labelling requirements in one legal instrument.

Food sold non-prepacked does not require a list of ingredients. But given the particular consumer interest in the meat content of meat products, the UK (in implementing Commission Directive 2001/101/EC relating to labelling of products containing meat as an ingredient) introduced around 10 years ago a mandatory requirement that quantitative ingredient declarations (QUID) be provided for the meat ingredients of meat products sold non-prepacked. Meat products such as meat pies, sausages, burgers, etc., are commonly sold non-prepacked on butchers' counters, deli counters, etc., and consumers want information on the amount of characterising meat ingredient(s) of these products to help them in their purchasing choice. This allows consumers to compare



meat content/QUID of similar meat products when sold non-prepacked in the same way as they can with meat products sold prepacked which do carry ingredient lists and Quantitative Ingredients Declarations.

Continuing the name of food requirement for all non-prepacked foods and requiring meat QUID for non-prepacked meat products will help to ensure consumers and industry receive accurate and transparent labelling information on non-prepacked foods.

Because the existing domestic UK legislation will be revoked when Regulation (EU) No 1169/2011 replaces the current EU Directives, the above provisions are necessary to maintain the existing national requirements for name of food and meat QUID information to be provided in relation to 'non-prepacked foods' after 2014.

#### **10. Reference Documents - Basic Texts**

References of the Basic Texts: Background papers on the UK's public consultations of the draft Food Information Regulations can be found at the web links below. Please note that it is the accompanying draft Regulations that are being notified and not the consultation versions of the Regulations.

<http://www.defra.gov.uk/consult/2012/11/07/fir-2013/>

<http://www.food.gov.uk/news-updates/consultations/consultations-northern-ireland/2012/foodinforegs2013ni>

<http://www.food.gov.uk/news-updates/consultations/consultations-scotland/2012/fir-scotland-consult>

<http://www.food.gov.uk/multimedia/pdfs/consultation/consult-firwales.pdf>

#### **11. Invocation of the Emergency Procedure**

No

#### **12. Grounds for the Emergency**

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#### **13. Confidentiality**

No

#### **14. Fiscal measures**

No

#### **15. Impact assessment**

-

#### **16. TBT and SPS aspects**

TBT aspect

No - The draft has no significant impact on international trade

SPS aspect



**EUROPEAN COMMISSION**  
GROWTH DIRECTORATE-GENERAL

**Single Market for goods**  
Prevention of Technical Barriers

No - The draft is not a sanitary or phytosanitary measure

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European Commission

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