



Department
for Environment
Food & Rural Affairs

08-04-2019

Food labelling in a no-deal scenario: Questions previously raised by stakeholders

Contents

Transition period	2
Borders and Enforcement.....	3
Organic Logo	5
Health and Identification Marks	6
FBO addresses	8
Goods placed on the market.....	11
General and Additional Questions	14
Geographical Indications	14
Mode of relabelling	14

Please note this document has been updated since 27th February 2019, when it was last issued. New questions and clarifications added to the document since this date are marked with **'Update 21-03-2019'**.

Update 21-03-2019 – the European Commission has recently published a [notice to stakeholders](#) '*Withdrawal of the United Kingdom and EU Food Law and EU rules on Quality Schemes*', which outlines their position in relation to many aspects of food law, including goods on the market. Please refer to this for further information.

These proposals are subject to agreement with the Devolved Administrations and parliamentary process.

Transition period

1. *Stakeholders have previously expressed that a long transition period would be preferable in order to commission and make all the necessary changes. Why is the transition period around 21 months?*

To allow a longer transition period could compromise trade negotiations and the UK's credibility as a trading partner. It also extends the time during which enforcement officials would be required to oversee alternative, more resource intensive food traceability measures. The UK has put in place a transition period of circa 21 months which aligns with the Implementation Period for the UK's withdrawal from the EU if the withdrawal agreement is approved. It therefore makes sense to require replacement labelling to be implemented to the same timeframe under both a "deal" and "no deal" situation.

2. *Why have chosen timescales for making specific labelling changes been given - is it a matter of the EU not allowing us to carry on, a consumer safety issue, or a "nice to have"?*

We have not chosen timescales for the labelling requirements of food for export to the EU as this is outside our power in a no deal scenario. The EU has issued guidance confirming that labelling changes will need to be in place from exit day to export to their markets¹.

For food to be placed on the UK market, we have looked for a balance between reasonable and pragmatic requirements for businesses and managing risks to consumer interests and risks to overall consumer confidence in the food industry.

3. **Update 21-03-2019** - *Are changes to labels required during the transition period if there is a deal?*

If the withdrawal agreement is approved, food labelling changes will need to be made at the end of the transition period.

4. **Update 21-03-2019** - *Will replacement labelling be required in the same timeframe*

¹ https://ec.europa.eu/info/sites/info/files/eu_food_law_en.pdf

under both a “deal” and “no deal” scenario?

One of the reasons for aligning most of the labelling changes to around 21 months after Day One, is to harmonise with the transition period (also referred to as the ‘implementation period’) for the UK’s withdrawal from the EU if the withdrawal agreement is approved. Given current uncertainties, it makes sense to provide industry a clear instruction to prepare for replacement labelling to be in the same 21 month timeframe which would apply under both the “deal” and “no deal” scenarios.

In the event of No deal, if it suited industry, the required changes could be made for the UK market at any point during the 21 month period. If the withdrawal deal is approved, food labelling changes will need to be made at the end of 21-month transition period.

Borders and Enforcement

5. Will food labelling be checked at the UK border?

Food does not need to be labelled for sale to the final consumer in order to cross the border and labels may be changed following its entry to the country. Food rarely gets stopped solely for this reason so we don’t anticipate that it will be stopped any more than it is now because of labelling issues.

6. Have bilateral discussions taken place with EU member states about pragmatic approaches to enforcement in the event of No deal?

No. The UK has no control over enforcement outside the UK. The EU has issued guidance confirming that labelling changes will need to be in place from exit day to export to their markets². Other non-EU countries may also require wholly accurate labelling for access to their markets. We can only recommend that labels are replaced or over-stickered as required to ensure they are fully accurate. This would include ensuring country of origin labelling, health marks and responsible business addresses were correct (further detail on FBO addresses on page 8)

*7. Will Government take a pragmatic approach to enforcement where labels are found to be incorrect? **Update 21-03-2019** - How far does the pragmatic approach to enforcement extend?*

In many cases transitional periods for changes to food labelling within the UK market are being written into legislation. However, where it has not been possible to make these legal changes we are working with enforcement officials in the UK to agree the requirements for a pragmatic approach to be taken where labels are found to be incorrect. Foods which may be subject to this pragmatic approach are:

- UK food and ingredients labelled as origin EU
- Organic produce
- Foods which use the EU emblem, e.g. Fruit and vegetables under the Approved Trader Scheme

² https://ec.europa.eu/info/sites/info/files/eu_food_law_en.pdf

Wherever changes to legislation, which would put a transition period around of 21 months (or 3 years in the case of GI's) into law, are not possible, we will encourage pragmatic enforcement for the UK market. Enforcement bodies are encouraged to put in place and communicate appropriate guidance on a pragmatic approach to food labelling enforcement, whilst seeking mitigation measures to safeguard traceability. Industry will be expected to work with enforcement officials and to take a responsible approach.

8. **Update 21-03-2019** -*The government has advised that suitable communication should be applied so as to prevent misleading customers regarding the origin of food. What would you recommend?*

It will be for enforcement officials to work with businesses to determine the precise nature of appropriate mitigation measures to ensure that consumers are not misled in cases of non-compliant labelling.

The pragmatic approach will only apply to the list of labelling changes applied on leaving the EU such as UK food and ingredients labelled as origin EU. All other origin labelling should be accurate.

9. *Would the government be willing to consider signs in shops rather than re-labelling?*

Where alternative pragmatic approaches are required, these would be a matter for discussion and agreement between the enforcement official and the retailer/operator. The aim of the approach must be to ensure that where food labelling is found to be non-compliant, measures are effected to ensure that consumer rights, traceability and food safety principles are safeguarded.

Organic Logo

10. *For the UK market, can manufacturers continue to use up old packaging that uses the EU organic logo on day one after leaving the EU?*

You must not use the EU organic logo on any UK organic food or feed after the UK leaves the EU unless equivalency is agreed. However, we will encourage pragmatic enforcement for the UK market, which recognises that industry will find it difficult and costly to manage the scale of labelling changes required.

11. **Update 21-03-2019** *-When can we expect the alternative to the EU Organic Logo to be published, and how will this be communicated to suppliers?*

The UK will be developing a UK organic logo in consultation with industry after EU exit. There is no specific timescale set as yet.

12. **Update 21-03-2019** *-Does the direction not to apply the EU Organic logo from the date we leave the EU apply for UK market products?*

The EU logo should not be used in the event of a no deal exit from the EU. However, we hope to achieve equivalence with the EU before or shortly after exit and, in recognition of the challenges faced by industry in removing the organic logo by the date we leave the EU, we will encourage enforcement officers take a pragmatic approach for the duration of the 21-month transition period to cases where labels were designed pre-exit, within the UK market.

13. **Update 21-03-2019** *- What is being done with regard to securing equivalency arrangements with the EU for organic products?*

The UK government is working with the European Commission to agree a reciprocal equivalence arrangement which will benefit organic trade and traders. The government wants flexible trading arrangements which work for everyone after EU Exit. Therefore, it aims to continue recognising the EU, EEA and Switzerland as operating an equivalent organic system to the UK for a limited time.

Health and Identification Marks

14. **Update 21-03-2019** - Will the agreed 21 month transition period apply in relation to Healthmarks, or will a Healthmark be a requirement from day one in a no-deal scenario?

The circa 21 month transition period applies to the health-marking of products of animal origin on the UK market. However, for exports to the EU the Commission have confirmed that health and identification marks must be compliant from day one. The Food Standards Agency has published [guidance](#) on Health and identification marks.

15. **Update 21-03-2019** - In the event of a no deal will there be a new oval health and identification mark for products of animal origin exported to the EU?

Yes – the new oval health and identification marks will no longer carry the EC abbreviation, but must instead carry either 'GB' or the full country name 'United Kingdom' if products are intended for the EU market. The FSA have produced [guidance](#) which contains further information in relation to health and identifications marks.

16. **Update 21-03-2019** - What oval health and identification mark should I apply if I export products to a non-EU country?

In the event of a no deal situation, products that are intended for export to a non-EU country, the GB, United Kingdom or UK health and identification mark may be used.

17. **Update 21-03-2019** - What health marks are acceptable on the UK market in the event of a no deal scenario? And can I continue to use packaging carrying the EC identification mark?

For products produced in the UK and placed on the UK market it is acceptable to use the GB, United Kingdom or UK health and identification marks.

For products produced in the UK, in a no deal scenario, it will be acceptable for a period of c.21 months starting from the date the UK leaves the EU to continue using packaging carrying the EC identification mark for **products placed on the UK market only**.

18. Will composite products containing animal products (e.g. milk powder) need to bear the health mark?

The requirement as to whether a product needs to carry a health or identification mark is not changing.

Only products coming from an approved establishment will carry an identification mark, which can be GB, UK or United Kingdom depending upon the market they are targeting, Products from establishments which are not approved (i.e. registered establishments) do not need to be health marked. **Packaging carrying the EC mark would only be acceptable for products placed on the UK market.**

19. Where can I find more information about what health and identification marks I must apply to products in the event of a no deal scenario?

Guidance on health and identification marks can be found on the FSA website³.

20. Can I apply both the UK and GB identification marks to a products that I intend to export to the EU?

The Commission have indicated that it will not accept products carrying two identification marks as this may be confusing for the consumer and imply different standards.

21. For Products of Animal Origin (POAO), will third country establishments approved by the EU continue to be acceptable to the UK? (Example - EU approved fish products from the USA). And will the UK set up a list of UK approved establishments?

During an implementation period, common rules would remain in place between the EU and UK, and market access would continue on current terms. During this period, the UK would continue to accept existing and new EU approvals for establishments.

In the event of no deal, the UK will continue to accept existing and new EU approvals of third country establishments until such time as the UK government introduces new import controls for animals, plants and their products. The current EU lists of approved establishments will remain the definitive list of approved third country establishments until the UK government considers it appropriate to transition to UK lists. Businesses and trading partners will be kept informed of changes regarding these that may impact upon them.

22. Update 21-03-2019 - *Will a certificate of origin be needed for deliveries (imports) from the EU27 on arrival in the UK in the event of no-deal, particularly in relation to products of animal origin?*

Food Standards Agency has published [guidance](#) on Health and identification marks. You can continue your normal trade activities for importing POAO (products of animal origin) from the EU to the UK from the date we leave the EU. There will be no additional controls or checks and you will not need to notify these on IPAFFS (Traces replacement system) on Day 1 No Deal. You'll need to notify UK authorities about high-risk food and feed products (this includes POAO) from the EU from summer 2019. Further details on this will be provided in advance.

³ <https://www.food.gov.uk/document/health-and-identification-marks-guidance>.

FBO addresses

23. *Is a PO Box number a legitimate FBO address?*

The address provided on the label must be genuine and substantive enough to meet the purposes of the provision which is to enable the FBO or importer to be contacted directly, quickly and easily concerning any issue arising from their product and to allow enforcement notices to be served if necessary. If PO boxes are used on the label they must serve this purpose and do not replace the need for the business concerned to be established with a physical presence. Examples of acceptable substantive FBO addresses include the address of a unit of an FBO that is undertaking production, distribution or processing of food. We are unable to comment on whether the EU will find PO boxes acceptable on food labels in EU27 countries as this is down to EU interpretation and is not within our control. If you export food products to the EU, you should get advice from your EU importing contact on the EU's labelling requirements.

24. *What will the Food Business operator address requirements be for food exported from the UK for sale in the EU27?*

After EU Exit, and as now, prepacked foods sold in the EU27 must include the name and EU address on the label of either the responsible food business operator or the importer which is established in the EU27. An address in the UK alone will no longer be sufficient. The requirement to be 'established' means that the FBO has a physical presence by way of a unit of a food business.

25. **Update 21-03-2019** - *Does the requirement outlined in the above question only relate to situations where an address would currently be required under the Food Information to Consumers Regulation?*

The requirement in a no deal scenario to ensure that foods exported to the EU27 must include the name and EU address on the label of either a responsible food business operator established in the EU27 or an importer into the EU is applicable to prepacked foods as specified in the Food Information to Consumers Regulation (11690/2011), and to the export of caseins sold in the EU (as specified in EU Directive 2015/2033 on the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption). There may be other policy areas that this requirement is also applicable and advice should also be sought from EU importing contacts on the EU's labelling requirements.

26. **Update 21-03-2019** - *Can a retailer prepare for a no deal by using dual labels that have both the name and address of an importer into the EU and the name and address of an importer into the UK? If so, can the retailer be confident that UK trading standards will be satisfied with this approach if there is a deal transition period where current rules will remain which state there should be only one named importer of goods into the EU market?*

In a no deal scenario, prepacked foods sold in the EU27 will need to include the name and EU address on the label of either the responsible food business operator (FBO) or if the FBO is not established in the EU, the importer into the EU27. A label which carries both the addresses of an FBO responsible for the information based in the UK and one based in the EU27 will ensure address requirements are met for both markets, allowing the product to be marketed in both EU27 countries and the UK.

If the FBO referred to in Article 8.1 of the Food Information to Consumers (FIC) Regulation is not established in the (current) EU (i.e. including UK), then the name and address must be given of the importer who first imported the specific products into the EU market. In a no deal scenario, the use of two importer addresses, one the importer into the EU27 and one into the UK, would be acceptable for food labels placed on the UK market.

As the purpose of an implementation period following a Withdrawal Agreement would be to enable businesses to make practical preparations required by exiting the EU, we will seek agreement with the EU that during this transition period, in preparation for exit and our future economic partnership, both addresses may be used across the EU27 and the UK. In any event, we will encourage a pragmatic approach by enforcement officers to allow dual labelling of importer addresses during such a period in the UK market. **Businesses wishing to dual label products in this way for the EU market would need to seek advice via their EU importing contact on compliance with the EU's labelling requirements.**

If an importer's details are used as an alternative to a EU27 FBO address, this must be the name and EU address of the importer who imported the goods into the EU27.

27. Would the address of a 'sister' company in the EU suffice for an EU FBO address?

This will depend on the legal relationship between the two companies. We recommend that businesses in this position seek their own legal advice and assurance from the EU, as in the EU 27 market interpretation of FBO addresses in a no deal is down to the EU and not within UK control. If you export food products to the EU, you should get advice from your EU importing contact on the EU's labelling requirements.

28. Can a Food Business Operator (FBO) address based in ROI be used for exports to any EU member state?

Yes. EU regulations allow an address of an established FBO in any EU27 country to be used anywhere in the EU.

Update 21-03-2019 - *Can goods continue to be imported to the UK with only an EU27 FBO address until the end of the 21-month transitional period?*

The 21 month transition period for FBO addresses in a no deal means that the labels for food produced or imported and placed on the UK market after exit day will be able to continue to bear an FBO address in the EU until the end of the transition period. These proposals are subject to agreement with Devolved Administrations and Parliamentary Process.

Update 21-03-2019 - *Will an FBO address be required for export to the EU or other 3rd countries in a no-deal scenario?*

If we leave the EU in a no deal, prepacked foods sold in the EU will need to include the name and EU address on the label of either a responsible food business operator (FBO) which is established in the EU or the importer of the goods into the EU. In the absence of an EU provision for transition periods for labelling in a no deal, these changes will be required on Day 1 of Withdrawal from the EU and companies exporting to EU 27 countries should be making preparations on this basis. Labelling

rules for export to non-EU third countries remain unchanged and are determined by individual countries.

31. **Update 21-03-2019** - *If an FBO has multiple importers (e.g. one per country), could the FBO make an agreement with one of the importers to use its address for all products placed on the EU market, or would different addresses be needed for imports from different countries?*

If an FBO address in the EU27 is not used, then the name and address must be given of the importer who first imported the specific products into the EU market. You should get advice from your EU importing contact on the EU's labelling requirements.

Goods placed on the market

32. *Can goods placed on the UK market during the 21-month transition period be sold through until exhaustion?*

Yes. Goods placed on the UK market up until the last day of the transition period may be sold through. This is set out in the food labelling transitional provisions in the exit SIs. FBOs are required to keep records, for example of production 'batch codes' that may provide evidence of date of manufacture. The Regulation 178/2002 definition of 'placing on the market' includes food held in storage, so not necessarily having entered the distribution chain, but we assume it will be traceable to a certain date of manufacture and in that way can be proven to have been placed on the market on a certain date.

33. *Will the definition of goods placed on the UK Market cover pre-labelled food goods?*

Yes, if they are being held for the purposes of sale in accordance with the Regulation 178/2002 definition. However, a definitive view can only be given in light of the full facts of a specific situation. Food information is still required even if the individual labels are not applied and FBOs are required to keep records, for example of production 'batch codes' that may provide evidence of date of manufacture.

34. *Will formal evidence be required to demonstrate to UK authorities when food and drink products entered the distribution chain, and if so, what form must this evidence take?*

FBOs are required to keep records, for example of production 'batch codes' that may provide evidence of date of manufacture. The 178/2002 definition of 'placing on the market' includes food held in storage, so not necessarily having entered the distribution chain, but we assume it will be labelled and in that way prepared for placing on the market.

35. *How will foodstuffs placed on the market be defined when the UK leaves the EU?*

There will be no change in UK law. The definition of "placing on the market", as set out in Regulation 178/2002⁴ will be incorporated into UK law under the Withdrawal Act. This definition states that "*placing on the market*" means the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves." If held in storage for the purposes of sale, goods are placed on the market; this may include goods without individual labels if they are being sold to another Food Business Operator (FBO). However, goods which are in a raw material state or which are still being processed are not "placed on the market".

Please note guidance relating specifically to goods placed on the EU market outlined in the previously answered questions below (No.s 36 - 40) have been superseded by this statement:

⁴ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002R0178>

Update 21-03-2019 – the European Commission has recently published a [notice to stakeholders](#) '*Withdrawal of the United Kingdom and EU Food Law and EU rules on Quality Schemes*', which outlines their position in relation to many aspects of food law, including goods on the market. Please refer to this for further information. Advice for goods placed on the UK market remains the same.

The notice states that “If an individual food product has been placed on the EU-27 market before the withdrawal date, i.e. it has been

- held in the EU-27 for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not; or
- sold, distributed, or transferred by other forms to the EU-27

this “stock” of food can continue to be sold, distributed or transferred in the EU-27 as of the withdrawal date without the need for labelling changes.

This is to be assessed for each individual product. It does not extend, for example, to a type of product.”

36. Will products made months in advance and stored in warehouses be able to be sold legally if we leave the EU without a deal?

Food and drink placed on the EU market before the date we leave the EU may continue to be sold through in the UK until those stocks become exhausted.

37. How will Goods placed on the Market will be defined and enforced in the EU27?

See the EU notice to stakeholders above.

38. How will goods on the market status be judged for animal carcasses around the point of withdrawal? Some parts of carcasses will be disassembled and be sent to the EU market and some will stay in the UK market – so how will they be able to demonstrate to respective EU and UK markets that the relevant parts have been on their market?

The same rules will apply as are currently applied. All products are subject to traceability requirements under Regulation 178/2002 (Art 18) which should enable determination of the date on which the products were processed and placed on the market.

39. Will the EU27 recognise the same definition of goods “placed on the market” as the UK?

The UK definition of "placing on the market" is set out in Regulation 178/2002. Please see the EU notice to stakeholders above.

The Commission have set out their definition in the EU notice to stakeholders above.

40. Has a product that has been produced and is being held with the intent of being sold (for example having been produced against a customer forecast, but the actual sale not having gone through) been “placed on the market”?

Yes, in relation to the UK market.

General and Additional Questions

Geographical Indications

41. **Update 21-03-2019** - *Are there any further details with regard to arrangements for Geographical Indications (GI) schemes after EU Exit?*

Once we leave the EU, the UK will establish its own GI scheme to ensure that UK products remain protected in the UK. This will include introducing new UK GI logos.

A three year adoption period before UK logo use becomes mandatory on UK agricultural and food products that are sold in the UK has been consulted on and agreed. The new UK GI logos will be available shortly after day one of exit so producers have the option to make GI labelling changes before the end of the adoption period if they wish. As with the current EU scheme rules, the use of logos will not be mandatory on wine, aromatised wine and spirit products.

42. **Update 21-03-2019** *Can the EU Geographical Indications (GI) logo continue to be applied?*

The EU GI logo can continue to be applied to product packaging after exit provided the product is listed on the relevant EU GI register. The EU logo can be displayed alongside the UK logo.

43. **Update 21-03-2019** - *Will the UK continue to recognise GIs registered in the EU?*

UK GIs currently registered in the EU schemes will continue to be protected in the UK when we leave the EU. The Government has not announced a decision on how EU GIs will be treated if the UK leaves the EU without a withdrawal agreement in place.

The UK is not obliged to protect EU GIs after exit. EU GI holders may need to apply for recognition in the UK after exit.

Mode of relabelling

44. *Can labelling changes be made by inkjet without a full label change?*

Yes. However, while we can say that this will be acceptable for products placed on the UK market, it will be for the EU to decide if it is acceptable on products exported to the EU.

45. *Will dual labelling be allowed, so that product labels can be compliant with UK and EU requirements?*

Although dual labelling is allowed in some situations, such as the name and address of the Food Business Operator, it will not be allowed in relation to the health and ID mark for products of animal origin (POAO). It will be for the EU to decide if it is acceptable on products exported to the EU.

46. **Update 21-03-2019** - *If businesses are required to re-label products intended for export to the EU/Third countries, in a foodservice business to business supply base, would over-stickering of the outer units suffice?*

Under the Food Information to Consumers Regulation, mandatory label information, including the name and address of the food business operator (FBO), is not required for business to business food, where the food is not intended for the final consumer ('the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity') or mass caterers ('any establishment (including a vehicle or a fixed or mobile stall) such as restaurants, canteens, schools, hospitals, and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer').

FBOs that supply to other FBOs food which is not intended for the final consumer or to mass caterers should ensure that those other FBOs are provided with sufficient information to enable them, where appropriate, to ensure the presence and accuracy of the food information, in accordance with the applicable food information law and requirements of relevant national provisions.

Separately, caseins exported to the EU must be labelled with an EU address for the responsible business when making business to business exchange of goods e.g. when in large, non-retail containers. **Directive (EU) 2015/2203**⁵ will still apply in a no deal scenario, and a 21 month transition period for labelling changes for the UK market will be laid in statute.

47. Can we over label products?

Yes, over labelling is permissible providing you don't obstruct other information that has to be displayed on the label. However, while we can say that this will be acceptable for products placed on the UK market, it will be for the EU to decide if it is acceptable on products exported to the EU.

Other Labelling Requirements

48. **Update 21-03-2019** - *In relation to origin indicators, can goods continue to be labelled with the terms 'EU' and 'Non-EU' until the end of the 21-month transitional period?*

This affects only minced meat, blended honeys, mixed fruit and vegetables and olive oils that are not labelled with their individual country or countries of origin. For the UK market during the transition period the options for labelling the origin of these foods includes EU and Non-EU. After the transition period, the option to use EU and Non-EU will no longer be available. As in all other foods, the individual country or countries of origin can continue to be given, as it is now, with no change required for EU Exit.

For all other foods, origin EU would be inaccurate for UK food. Where UK food and ingredients are labelled as origin EU a pragmatic approach to enforcement will be in place for 21 months to enable a smooth transition.

⁵ Article 4. 1 (d) 'the name or business name and the address of the food business operator under whose name or business name the product is marketed or, if that food business operator is not established in the Union, the importer into the Union market,'

For the EU market existing EU labelling rules will continue to apply. It will be inaccurate to label UK food as origin 'EU' as the EU have confirmed they will require accurate labelling for goods entering EU markets from exit day.

Please note, the European Commission has recently published a notice to stakeholders a 'Withdrawal of the United Kingdom and EU Food Law and EU rules on Quality Schemes'⁶, which outlines their position in relation to many aspects of food law.

49. Update 21-03-2019 - What is the expected status for the front of pack traffic light labelling especially on export products to the EU?

Whilst we expect no immediate changes following EU Exit any changes to the UK Government's recommended voluntary front of pack (FOP) nutritional labelling scheme depends on the terms of the EU Exit agreed. If there were to be an exit from the EU without a deal, there is no direct implication for the voluntary UK FOP labelling scheme therefore the use of the UK voluntary front of pack nutritional labelling scheme on products sold in the UK would be able to continue on the voluntary basis it is now. EU or member states could make the decision not to recognise the UK FOP scheme but it is not automatic in the case of a no deal Brexit. In this event we would seek to ensure this was not the case.

Should the Withdrawal Agreement be approved there would be no changes until we have transitioned out of the EU. The ability to sell products that feature UK FOP nutritional label on them would be determined once we have a finalised transaction deal. We are mindful that this is an area that a large number of businesses that use the scheme are concerned with. Government are monitoring this area closely and will update key stakeholders of any changes to this approach.

50. There is a risk that businesses will have to apply different standards to comply with the legislation for EU 27 countries if there is no mutual recognition in place once we leave the EU. Will such requirements be enforced from day 1 or will there be a transition period?

In a no deal situation it will be up to the importing country to decide whether they wish to enforce from Day One or implement transitional arrangements.

51. How will businesses keep abreast of future changes to EU laws and regulations?

EU legislation is published on the European Commission's EUROPA⁷ website

Nutrition and health

52. Will the UK continue to recognise the EU nutrition labelling tolerances?

The Nutrition (Amendment etc) (EU Exit) Regulations 2019 make only technical fixes to retained EU law that would arise as a result of the United Kingdom withdrawing from the European Union. Further to this, labelling tolerances are set out in EU guidance referred to by Department of Health and Social Care (DHSC) technical guidance on nutrition

⁶ https://ec.europa.eu/info/sites/info/files/eu_food_law_en.pdf

⁷ <http://europa.eu/>

labelling. The department is proposing no changes to labelling requirements in the Nutrition (Amendment etc) (EU Exit) Regulations 2019 nor via forthcoming guidance.

53. When will the draft nutrition legislation regulations be shared? The draft devolved administrations regulations are being shared, but these relate to the main nutrition legislation.

The Nutrition (Amendment etc) (EU Exit) Regulations were laid before Parliament on 30th January 2019⁸.

54. Will the UK recognise and implement the EU Register of Health Claims?

In preparation for the United Kingdom's withdrawal from the European Union all nutrition and health claims will be adopted as they exist on the day we leave the EU. This is in line with the UK government's commitment to upholding its obligations as an EU member state, and respecting decisions taken at an EU level up until exit day.

55. Will the UK recognise and continue to permit the use of health claims on hold? e.g. caffeine and botanicals.

Update 21-03-2019 - As set out in a Department of Health Bulletin (2014) intended for interested parties entitled Article 13(1) 'on hold' Health Claims Spreadsheet, on hold claims are those which may be used while they are still under consideration, subject to the transition measures in Article (28)(5) of the Nutrition & Health Claims Regulation (EC) 1924/2006.

'On hold' claims are still under consideration in the EU, however, after exit day the UK will have its own system for authorising claims separate from the EU authorisation system.

In the event of 'no deal' the UK Government and devolved administrations will launch a call to evidence, seeking information from stakeholders so that the full scale of the issue may be understood. Current thinking is that following the call for evidence, a policy decision would be made on the UK approach to 'on hold' claims and how these will be dealt with under the UK authorisation system.

As it is the intention of the UK Government and Devolved Administrations to minimise disruption to business in the event that the United Kingdom withdraws from the European Union without a deal, we will provide business reasonable time to plan accordingly. 'On hold' claims may continue to be used in accordance with the Bulletin until a decision is made following the call for evidence.

General Questions

56. How is Government communicating with SMEs?

The government has published extensive advice on the steps that businesses may need to take to prepare for the UK's departure from the EU. SMEs and the wider public should visit [gov.uk/euexit](https://www.gov.uk/euexit) to access the information they need. Defra is also working closely with industry groups and stakeholder networks to reach out to as

⁸ <https://www.legislation.gov.uk/ukdsi/2019/9780111178751/contents>

many SMEs as possible. This includes engaging with networks and supply chains beyond Defra's core constituency but who nevertheless have good reach into affected businesses.

57. What if the DA's are afforded/exercise powers on labelling – will there be Mutual Recognition within the UK market?

The national framework for the internal UK market are subject to discussions under the Joint Ministerial Committee agreement. All proposals are subject to agreement with devolved administrations and Parliamentary process

58. The EU has said we can't make use of legal derogations and must be fully compliant with third country requirements.

The FSA has taken steps to roll over EU law into UK law and this will ensure that we are fully compliant with EU requirements. The EU have indicated that as a third country the UK must not make use of derogations that support local, marginal and restricted trade and food business operators must be fully compliant with third country legal requirements. The FSA has identified these derogations and is working with food business operators to make sure they are fully aware of what they must do meet third country requirements.

59. List 669 – toxins – UK are to be treated as third country and may be subject to additional checks. Will additional checks need to be done for Republic of Ireland due to being a third country?

The Imports SI (The Food and Feed Imports (EU Exit) Regulations 2019) provides that all countries outside the UK will be treated as a third country. As of day one in a no deal scenario, only specified products from specified countries laid down in the current annex to Commission Regulation 669/2009 (as amended) will be considered as high risk. There are no high risk products currently listed in the annex from EU Member States.

60. Update 21-03-2019 - *Can you advise if UK producers can still use the term 'free range' on poultrymeat packaging when exporting to a Member State?*

Special marketing terms such as free range can continue to be used post EU exit both domestically and for export, regardless of a deal. However, if the UK is treated as a third country by the EU, where special marketing terms are used in relation to the farming or chilling method, poultry meat exported to the EU must be accompanied by a certificate issued by the competent authority attesting that these products have met the relevant requirements in the Regulations where optional indications are used in relation to the farming or chilling method. . We are working on options to accommodate this and ensure trade continues to flow smoothly. We will continue to keep industry informed of any new processes.

61. In December, industry were asked to confirm details of establishments which wished to retain EU approval. Is there an update on progress?

FSA have written to all approved establishments and will provide Defra and the Commission with the list of those establishments that wish to be put forward for listing.

62. Will the UK continue to recognise the current list of approved novel foods?

The UK will continue to recognise the current list of approved novel foods after we leave the EU. The list of authorised (approved) novel foods is included in one of the Novel Food Regulations (EU) 2015/2283 implementation acts being retained in UK law under the European Union (Withdrawal) Act 2018.

63. Do eggs sourced from outside the UK and incorporated as an ingredient in a product need to be labelled in the same way as if they were fresh eggs?

The labelling requirement in respect of “non-UK standard” eggs is a requirement to mark packs of eggs entering the UK where there is not a sufficient guarantee of equivalence to the UK standard (which until further notice is the same as the EU standard).

There is no requirement to indicate the farming method of eggs where they are used as an ingredient in a product. However, where the farming method is indicated, for example if a product containing eggs as an ingredient is sold with the indication ‘made with free range eggs’, then this must be accurate and must not mislead consumers. The terms used to indicate farming method are controlled by Regulation (EC) No 589/2008, which will be retained in UK law on exit day. Post exit, these terms can only be used where the eggs are produced to the UK standard or its equivalent.

64. For food ingredient labelling, what descriptor will need to be used: Salt or Sodium?

The term “salt” must be used since it is more readily comprehensible by consumers than “sodium”. The amount of salt in a product is calculated by determining the total sodium in a product (naturally occurring, and that deriving from salt and other additives) and multiplying by 2.5⁹.

65. If the UK gets a deal, what conditions will apply from the end of the implementation period?

This is dependent upon the outcome of negotiations.

9

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/595961/Nutrition_Technical_Guidance.pdf