

Explanatory Memorandum to the Honey (Wales) Regulations 2015

This Explanatory Memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Member's Declaration

In my view the Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Honey (Wales) Regulations 2015.

Vaughan Gething

Deputy Minister for Health

8 July 2015

Explanatory Memorandum for the Honey (Wales) Regulations 2015

1. Description

These Regulations implement in relation to Wales the provisions of Directive 2001/110/EU relating to honey ('the EU Honey Directive') as amended by Directive 2014/63/EU and revoke and replace the Honey (Wales) Regulations 2003 (S.I. 2003/3044 (W.288)) ('the 2003 Regulations'), as amended. This ensures that we are complying with our EU obligations in Wales in relation to the transposition of the amended Directive and ensures consistency in the minimum quality of the products regulated by the Regulations and the correct use of product names so that consumers are not misled.

2. Matters of Special Interest to the Constitutional Affairs Committee

The requirements of the revised EU Honey Directive were to be applied throughout the European Union by 24 June 2015. These Regulations are to come into force in Wales on 3 August 2015.

The Regulations implement in Wales the requirements of the revised EU Honey Directive.

3. Legislative Background

Currently, the Honey (Wales) Regulations 2003 ('the 2003 Regulations') set out in relation to Wales detailed compositional and general quality criteria for honey and provide for specific labelling requirements. The 2003 Regulations implement the EU Honey Directive in Wales.

Directive 2014/63/EU amends the EU Honey Directive. The Honey (Wales) Regulations 2015 will revoke and replace the Honey (Wales) Regulations 2003 to consolidate the existing requirements on the composition and labelling of honey in Wales and to implement in Wales the requirement of the EU Honey Directive as revised.

The Regulations are made in exercise of the Welsh Ministers' power under sections 6(4), 16(1), 17(1), 26(1) and (3), and 48(1) of the Food Safety Act 1990. The regulations are subject to the negative procedure.

The relevant powers under the Food Safety Act 1990 were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

4. Purpose and Intended Effect of the Legislation

The Honey (Wales) Regulations must be updated to reflect the latest EU Directive that amends the EU Directive on Honey.

The instrument will:

- Consolidate the Honey (Wales) Regulations and, in doing so, will revoke the Honey (Wales) Regulations 2003 and two amending SIs; these will be replaced with one instrument. The Regulations will also revoke specified provisions contained in the Food Information (Wales) Regulations 2014;
- transpose the EU Honey Directive, as amended by Directive 2014/63/EU.

The objective is to consolidate the current Honey Regulations and provide for an essential labelling change so that the correct terminology is used on honey labels which should now refer to the European Union (EU) rather than the European Community (EC).

The Regulations are also updated to take account of the amendment of EU Honey Directive by Directive 2014/63/EC which provides clarity on the issue of the status of pollen by making it clear that, from a food labelling perspective, it is not to be considered an ingredient of honey.

The status of pollen as an ingredient was considered by the Court of Justice of the European Union in Case C-442/09, Karl Heinz Bablok and Others v Freistaat Bayern (2011 ECR I-07419). Following that case, Directive 2014/63/EU amended the Honey Directive to make it clear that pollen, as a natural constituent of honey, is not to be considered to be an ingredient for the purposes of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers. Regulation (EU) No 1169/2011 contains food labelling rules that apply to all foods, including honey. The clarification provided by Directive 2014/63/EU makes it clear that honey is to be regarded as a natural and single ingredient food and does not require pollen to be listed as an ingredient. This allows producers to continue to market honey as they have done in the past.

5. Consultation

The Food Standards Agency ran a shortened 6-week consultation from the 11th May to the 22nd June 2015. There were two responses to the consultation in Wales; one from a business and one from a Local Authority. The response from Industry was supportive of the minor changes being proposed. The response from a Local Authority in Wales suggested an addition to the definitions section of the SI. We have agreed to look at this suggestion in more general labelling regulations that are intended to come into force next year. No changes were made to the SI in light of these responses. All comments and the FSA's response will be published on the FSA's website within 3 months of the regulations coming into force.

6. Regulatory Impact Assessment

A Regulatory Impact Assessment has not been prepared to accompany these Regulations as there are no changes to the current controls and therefore no identified costs to consumers, businesses or enforcement authorities associated with implementation of these new Regulations.

These Regulations will not impose any significant new burden on the Welsh Government or enforcement officers. Rural areas and members of the ethnic communities, or of any particular racial group are unaffected by these proposals. Charities and voluntary organisations are unaffected by these proposals.