CONSULTATION DOCUMENT

Title: Post Implementation Review of the Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013

CONSULTATION SUMMARY PAGE

Date launched:	20 November 2018	Closing date:	21 December 2018

Who will this consultation be of most interest to?

Food industry organisations, sector specific businesses (e.g. manufacturers of food additives, flavourings and enzymes), enforcement bodies, consumer groups, non-government organisations.

What is the subject of this consultation?

This consultation is on the Post Implementation Review (PIR) of the Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013 ("the Regulations")

What is the purpose of this consultation?

To seek stakeholder views on the draft PIR report prepared by the Food Standards Agency's (FSA) on this Regulation.

Responses to this consultation should be sent to:

Nasreen Shah
Food Additives, Flavourings and Food Contact Materials, Food Policy

FOOD STANDARDS AGENCY
Tel: 020 7276 8910

Floor 6/7, Clive House,
70 Petty France,
London,
SW1H 9EX
Email: Nasreen.Shah@food.gov.uk

Impact Assessment included?	Yes ☐	No ☐ See Annex A for reason.

Post Implementation Review of the Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013

DETAIL OF CONSULTATION
Introduction

The Food Standards Agency is carrying out a formal consultation on the post implementation review (PIR) of the Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013[1], five years after coming into force. Details of the review are provided in a draft PIR report.

The PIR report assesses the effect of the Regulations within England, by collating evidence from a number of key stakeholders, on the success of the consolidation, if there have been any significant impacts arising from it, if it has provided adequate consumer protection and if the civil sanctions introduced in the Regulations have been appropriate and proportionate.

The main function of the Regulations, is to provide for the enforcement, in England, of directly applicable EU requirements that apply to food additives, flavourings, enzymes and extraction solvents. Considering the low impact on relevant businesses of this legislation, a light-touch PIR was considered proportionate. The FSA has collated evidence and views from key stakeholders, including any available data on costs and benefits arising from its implementation.

The Regulations include a statutory review clause requiring a PIR of the operation and effect of regulations 2 to 19 of that instrument. The review must be undertaken and published by 31 October 2018 however this deadline has not been met. The Statutory Review clause for the Regulations was introduced prior to enactment of sections 28 to 30 of the Small Business, Enterprise and Employment Act 2015.

Engagement and Consultation Process

1. Key stakeholders were consulted informally to collect preliminary evidence to help inform the review, this has been included in the PIR. The preliminary consultation included stakeholders who engaged with the FSA when the legislation was developed in 2013 and other key interested parties.

2. This light-touch PIR sets out the objectives of the consolidation exercise, the extent to which they have achieved and whether they could be achieved by means that impose less regulatory burden. The review also considered evidence provided by stakeholders on the effectiveness of the Regulations and the extent to which they are still relevant.

3. In line with the light-touch approach determined to be appropriate for this PIR and our previous engagement with most of the key stakeholders; the FSA is now conducting a consultation over a 4-week period to gather wider stakeholder views in addition to those already provided. The key areas of focus are:

    - The degree of success of the consolidation and whether any significant impacts on business arose as a consequence;

[1] SI 2013 No. 2210

- the extent to which the civil sanctions introduced by the Regulations have been used; and

- whether those civil sanctions have proved an effective means of enforcement and adequate level of consumer protection.

4. Following the consultation, we will review the responses received and consider whether any changes are required to the PIR. A summary of the all comments received, will be published on the FSA's website within 3 months following the end of the consultation period.

5. This wider public consultation will test our initial views and the final PIR report will be updated to reflect any significant findings. Following consideration by the Regulatory Policy Committee of the adequacy of this PIR, and any further refinement that may be required the final review report will be published on food.gov.uk

Impact

6. No significant financial impacts were identified by the FSA or highlighted by stakeholders in 2013, when the Regulations were developed. No significant financial impacts have been identified during this review of the Regulations, or following initial comments received from key stakeholders during engagement on the review.

Questions asked in the consultation

7. Interested parties are particularly invited to respond to the following questions:

Questions:

Q1: Do you agree with stakeholder responses to the preliminary consultation, that the consolidated SI created a simplified system? Please explain your response with evidence where possible.

Q2: Do you agree with stakeholder responses to the preliminary consultation, that there were no significant impacts resulting from the consolidated SI? Please explain your response with evidence where possible.

Q3: Do you agree with stakeholder responses to the preliminary consultation, that the introduction of compliance notices for non-food safety contraventions provide adequate consumer protection as well as opportunities [for food businesses] to take corrective action? Do you have any other views or comments in relation to the questions set out above in 6.1.3. a), b) and c)? Please explain your response with evidence where possible.

Q4: Do you agree with stakeholder responses to the preliminary consultation that the civil sanction introduced by the consolidated SI are appropriate and proportionate? Please explain your response with evidence where possible.

Q5: Do you agree with the FSA conclusion that the consolidated SI remains

effective and relevant in meeting the intended objectives? Please explain your response with evidence where possible.

Q6: We would welcome any additional comments or views in relation to the consolidated SI or the proportionality of this PIR? Please explain your response with evidence where possible.

Q7: Do you have any views on the use of sanctions generally, or the inclusion of criminal sanctions, in The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013. Please explain your response with evidence where possible.

Other relevant documents

8. The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013 are available at the following link: http://www.legislation.gov.uk/uksi/2013/2210/contents/made

Responses

9. Responses are required by close **21 December 2018**. Please state in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours Faithfully,

Nasreen Shah
Food Additives, Flavourings and Contact Materials
Food Policy

Enclosed

Annex A: Standard Consultation Information

Annex B: Draft Post Implementation Review report

Annex C: List of interested parties

Publication of personal data and confidentiality of responses

1. In accordance with the FSA principle of openness we shall keep a copy of the completed consultation and responses, to be made available to the public on receipt of a request to the FSA Consultation Coordinator (020 7276 8308). The FSA will publish a summary of responses, which may include your full name. Disclosure of any other personal data would be made only upon request for the full consultation responses. If you do not want this information to be released, please complete and return the Publication of Personal Data form, which is on the website at **http://www.food.gov.uk/multimedia/worddocs/dataprotection.doc** Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.

3. In accordance with the provisions of Freedom of Information Act 2000/Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.

4. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

Further information

5. A list of interested parties to whom this letter is being sent appears in Annex C. Please feel free to pass this document to any other interested parties or send us their full contact details and we will arrange for a copy to be sent to them direct.

6. Please contact us if you require this consultation in an alternative format such as Braille or large print.

7. This consultation has been prepared in accordance with HM Government consultation principles[2].

[2] http://www.bis.gov.uk/policies/bre/consultation-guidance