

Proposed Changes to the UK Health and Identification Marking

CONSULTATION SUMMARY PAGE

Date launched:	11 September 2018	Closing date:	08 October 2018
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Who will this consultation be of most interest to?

This consultation will be of most interest to food industry stakeholders, particularly those involved in the production of products of animal origin and operate from an approved establishment. UK Enforcement Authorities who are responsible for a wide range of approved premises, as well as the Animal Plant Health Agency and the Department of Agriculture Environment and Rural Affairs who hold responsibilities for export health certification work, will also have an interest.

What is the subject of this consultation?

When the UK ceases to be a Member State of the EU, the UK will not be entitled to use any abbreviation in the health and identification mark used by approved establishments on products of animal origin that implies membership of the EU. The form of the health and identification marks for products from UK approved establishments must therefore be amended to reflect this and the format laid down in UK legislation. The FSA has responsibility for taking forward this legislative change in food law and is seeking views on its proposals.

What is the purpose of this consultation?

The purpose of this consultation is to:

- Seek the views of stakeholders regarding the proposed changes to the form of the UK health and identification mark.
- Seek stakeholder's views on FSA proposals to allow industry to use up packaging bearing the old identification mark, once the UK leaves the EU, for domestic use only to minimise the impact of costs and waste on industry.
- Seek views on what length of time is considered proportionate to allow industry to use up packaging bearing the old identification mark.
- Ask industry to provide evidence about the impact of the changes we are proposing.

Responses to this consultation should be sent to:

David Lowe
Regulatory and Legal Strategy Directorate

FOOD STANDARDS AGENCY

Tel: 07881857759

Food Standards Agency
7th Floor, Clive House, 70 Petty France
SW1H 9EX

Email: csulondontransactions@food.gov.uk

Impact Assessment included?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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Proposed Changes to the UK Health and Identification Marking

DETAIL OF CONSULTATION

1. On the 23 June 2016, the United Kingdom (UK) voted to leave the European Union (EU). Since then, the Food Standards Agency (FSA) and Food Standards Scotland (FSS) have been working hard to ensure that the high standard of food safety and consumer protection we enjoy in this country will be maintained when the UK leaves the European Union.
2. The European Union (Withdrawal) Act 2018 will convert EU law into domestic law from 29 March 2019, the day the UK ceases to be a member of EU. The provisions of this Act will allow steps to be taken to ensure that key food and feed safety controls are maintained from day one.
3. This consultation complements the FSA consultation 'Proposed Changes to the Health and Identification Marks' launched on the 27th July 2018 and provides a further opportunity for consumers and stakeholders to express their views on FSA proposals on the format of the health and identification marks which are required to be applied to products of animal origin produced in approved establishments. This legislative change is necessary as UK businesses will no longer be permitted to apply the health or identification mark in the format prescribed in EU legislation for food business operators within the EU.

Update to the health and identification marks

4. A new UK health and Identification mark must be prescribed in UK Legislation that recognises that the UK will no longer be a EU Member State. The FSA proposes to retain the existing format of the current health and identification mark and to simply remove the 'EC' abbreviation required under the EU legislation.
5. The dimensions and form of the current oval health and identification marks will therefore remain the same, including the "UK" abbreviation representing England, Wales, Scotland and Northern Ireland. It will continue to be a single mark incorporating the establishment approval number, which will also remain unchanged. Please see the pictures below.



Health Mark



Identification Mark

6. This change will ensure that UK products continue to display an appropriate mark that clearly shows the product has been subject to the strict health and welfare checks that will continue after the UK leaves the EU.
- **Do you have any views or concerns with the proposed change to the health and identification mark?**

Use of current 'EC' Health and Identification Marks Post EU Exit

7. The UK Government and the EU are currently negotiating transitional arrangements, and this will include details regarding how UK products with an 'EC' Health or identification mark are treated when the UK leaves the EU. The EU have stated that in principle all products produced up to the date when the UK exits the EU will not be affected by this change, but a final decision on this matter is dependent upon agreed transitional arrangement.
8. It is anticipated by the FSA that any negotiated transitional arrangements will allow UK businesses to continue to apply their existing identification mark during the transition period. In the absence of a transitional agreement, and/or once any transitional arrangements are complete, UK approved businesses will not be permitted to place any products on the market, outside of the domestic UK market with the current 'EC' health or identification marks.
9. The FSA is assessing the impact of this change on UK businesses and would therefore welcome any evidence towards this assessment. From our discussions with businesses since the UK voted to leave the EU, and from evidence provided by business in the past relating to health and identification marking issues, we have developed some initial assumptions.
 - **We understand that it is reasonable to assume business will stock 6-12 months' supply of packaging at any time.**
 - **We understand that some businesses may apply their ID mark to packaging at the establishment where the product is produced, in line with their printing of 'use by' or 'best before' dates.**
 - **Confirmation that we believe that in the past it has been accepted practice by the EU to permit businesses to over label the identification mark.**
 - **Confirmation that UK businesses should be permitted to use up existing stocks of packaging containing the old identification mark for products that are intended only for placing on the national UK market.**
 - **UK arrangements permitting the continued use of packaging bearing the 'EC' ID mark for products placed only on the national market would need to be time limited. Based on current assumption that business hold supplies of packaging for 6-12 months we would initially expect to set a period of no longer than 12 months.**
 - **If transitional arrangements allow the continued use of the 'EC' health or identification marks post 29 March 2019 for a fixed period, we would take this into account when determining how long we would allow the use of packaging bearing the old identification mark. Therefore, if a 2-year transitional agreement is reached we would not anticipate the need for any UK business to continue using packaging containing the 'EC' ID mark once the transitional period has ended.**

10. We would welcome your views, supported by evidence wherever possible, on the impact of this change and the above assumptions.

Wider impact

11. Our aim is to keep the change to the health and identification marks as simple and least burdensome as possible. We want to minimise the impact on industry and ensure continued recognition and confidence in the safety and quality products in the UK, EU and countries that we export to outside the EU.
- **Are there any other impacts or considerations resulting from changing the UK health and identification marks that we have not identified in this consultation?**
12. It is important that the FSA fully assesses the impact of this change and we would therefore welcome any views or evidence to support our assessment of this impact.

Engagement and Consultation Process

13. The FSA has written to all approved food establishments and Local Authorities in England, Wales and Northern Ireland, notifying them of this issue and preparing them for this change as well as directly seeking their views on FSA proposals and the likely impacts to them from this change. If you have previously responded to the FSA on this subject your views will be taken into account when reviewing this consultation.

Questions asked in this consultation:

- 1. Do you have any views or concerns with the proposed approach to change the health and identification mark?**
- 2. Is it reasonable to assume on average that business will stock approximately 6-12 months' supply of packaging at any time?**
- 3. Do you have any information that might help us to understand the proportion of businesses that will directly apply their identification mark to packaging at the establishment where the product is produced?**
- 4. Is it reasonable to assume that UK businesses would want to be able to use up existing stocks of packaging containing the old identification mark for products that are intended only for placing on the national UK market?**
- 5. We would welcome your views on whether the proposals to permit the continued use of packaging bearing the 'EC' ID mark for products placed only on the national market for a period of 12 months after the UK exits' the EU is proportionate. (This is based on the assumption that businesses typically hold supplies of packing between 6 – 12 months).**
- 6. Are there any other impacts or considerations resulting from changing the UK health and identification marks that we have not identified in this consultation?**
- 7. We would welcome any other views or comments that you have in relation to this issue.**

Other relevant documents

14. The following link takes you through to the FSA pre-consultation letter, Proposed Changes to the Health and Identification marks launched on the 27 July 2018.

<https://www.food.gov.uk/news-alerts/consultations/proposed-changes-to-the-health-and-identification-marks>

Responses

15. Responses are required by close 08 October 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,

David Lowe
Regulatory and Legal Strategy Directorate

Annex A: Standard Consultation Information

Disclosure of the information you provide

Information provided in response to this consultation may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004).

If you want information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

Any automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding.

The Food Standards Agency will be what is known as the 'Controller' of the personal data provided to us.

Why we are collecting your personal data and what we do with it

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

The Data Protection Act 2018 states that, as a government department, the Food Standards Agency may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

We retain personal information only for as long as necessary to carry out these functions, and in line with our retention policy. This means that this information will be retained for a minimum of 7 years from receipt.

All the personal data we process is located on servers within the European Union. Our cloud based services have been procured through the government framework agreements and these services have been assessed against the national cyber security centre cloud security principles.

No third parties have access to your personal data unless the law allows them to do so. The Food Standards Agency will sometimes share data with other government departments, public bodies, and organisations which perform public functions to assist them in the performance of their statutory duties or when it is in the public interest.

What are your rights?

You have a right to see the information we hold on you by making a request in writing to the email address below. If at any point you believe the information we process on you is incorrect you can request to have it corrected. If you wish to raise a complaint on how we have handled your personal data, you can contact our Data Protection Officer who will investigate the matter.

If you are not satisfied with our response or believe we are processing your personal data not in accordance with the law you can complain to the Information Commissioner's Office (ICO) at <https://ico.org.uk/>, or telephone 0303 123 1113.

Our Data Protection Officer in the FSA is the Information Management and Security Team Leader who can be contacted at the following email address:
informationmanagement@foodstandards.gsi.gov.uk

Further information

If you require a more accessible format of this document please send details to the named contact for responses to this consultation and your request will be considered.