



FSA consultation on transitional arrangements for edible insects in Great Britain

Launch date: 13 July 2022

Respond by: 10 August 2022

This consultation will be of most interest to

Industry, enforcement authorities, consumers and other interested stakeholders with an interest in the policy and legislation regarding edible insects.

Consultation subject

The Food Standards Agency (FSA) is seeking stakeholder comments on a proposed legislated transitional period under the novel food regulations for edible insects in England, Scotland and Wales. The proposal has been developed with input from Food Standards Scotland (FSS).

In Northern Ireland, edible insects considered novel under EU Food Law, as applied under the current terms of the Protocol on Ireland/Northern Ireland (NIP), require authorisation in line with Regulation (EU) 2015/2283, before being placed on the market in Northern Ireland. It is the European Commission's authorisation process, including validation, that applies in Northern Ireland.

Purpose of the consultation

To seek comments from industry, enforcement authorities, and other interested stakeholders on the proposal.

How to respond

Responses to this consultation should be sent to:

Email: Novelfoods@food.gov.uk

Details of consultation

Introduction

The Food Standards Agency (FSA) has reviewed the policy approach to authorisation of certain edible insects in Great Britain (GB) within scope of the existing transitional measures in the novel food regulations retained from the European Union (EU) (see specifically Article 35(2) of [retained Regulation \(EU\) 2015/2283](#)).

The FSA welcomes your comments on the below policy proposal to introduce a legislated transitional measure, specific to GB, which will clarify the arrangements for businesses seeking a novel food authorisation for their edible insect product.

Background

Novel Foods

Novel foods are foods which have not been widely consumed by people in the UK or EU before 15 May 1997. This means that the foods do not have a 'history of consumption'. Novel foods must be authorised before they can be placed on the market in GB.

The Novel Status of Edible Insects

All insects are considered to be novel unless they are one of a very limited number of species that were commonly consumed within the EU or the UK prior to 15 May 1997.¹

In 2018, prior to the UK leaving the EU, the EU replaced its existing novel foods legislation with Regulation (EU) No. 2015/2283 ('2015/2283'). The update captured whole

¹ So far, only two insects have been identified that meet this criteria, being two species of cheese mite traditionally used in cheesemaking.

edible insects within the framework for the first time. Thereafter, all insects considered novel would require authorisation before being placed on the EU or UK market.

To provide industry time to move to compliance, transitional measures were included in Article 35(2) of 2015/2283. These allowed certain edible insects to continue to be placed on the market until the European Commission made a decision regarding authorisation, provided the product:

- had been lawfully placed on the market by 1 January 2018,
- did not fall within the scope of EU Regulation 258/97 (the precursor framework to the subsequent novel foods regulations),
- was subject to an application having been submitted to the EU by 1 January 2019.

EU Exit and Article 35(2)

Following EU Exit, Regulation 2015/2283 was retained and now applicable in England, Scotland and Wales, including the transitional measures of Article 35(2) that apply to edible insects. This means that, from 1 January 2021, only edible insects authorised by FSA or FSS may be placed on the market in Great Britain, unless they are covered by the transitional measures.

While Article 35(2) was retained in UK novel food legislation, it was transferred without being adapted to the market or regulatory context in Great Britain (GB). The policy proposal below is seeking to address this.

The proposal is to provide a legislated transitional period in GB, which eligible edible insect businesses can use, and which will facilitate authorisation applications.

The FSA and FSS have actively encouraged the edible insects industry to apply for authorisation through [the UK's Regulated Products Authorisation System](#). One such application has been received to date.

Northern Ireland

In Northern Ireland, EU Food Law relating to novel foods continues to apply under the NIP. 2015/2283 provided for transitional measures for those products that were lawfully placed on the market in Northern Ireland, including those already authorised, to remain on the market. Edible insects which are authorised to be placed on the market in Northern Ireland can be found on the [European Commission: Novel Foods Catalogue](#).

The transitional measures in Article 35(2) of 2015/2283 continue to apply in Northern Ireland for those products that were lawfully placed on the EU market. These products may continue to be placed on the Northern Ireland market until a final decision has been adopted by the EU.

For other species of insect not covered under Article 35(2), to be compliant with Novel Foods Regulations, these products must first be authorised by the EU, through [the EU Novel Foods authorisation process](#), before being placed on the Northern Ireland market.

Policy Proposal

To adapt the transitional measures in retained EU law to the GB context, the FSA, with FSS, have developed a proposal for legislated transitional arrangements for the edible insects within scope of Article 35(2) of 2015/2283 provided that the insects:

- were marketed in the EU (by any food business operator) before 1 January 2018;
- were the subject of an application to the EU (by any food business operator) by 1 January 2019; and
- are the subject of an application made to GB authorities (by any food business operator) before 31 December 2023.

The edible insects in scope would be permitted to remain on the market in GB until Ministers decide on the authorisation, or until the authorisation process concludes in some other way (e.g. is withdrawn by the applicant). The legislation will make it clear that food businesses supplying edible insects must pass through the GB authorisation process if they are to remain on the market.

Rapid risk assessment

The proposal would allow eligible edible insects to remain on the market in GB, though individual products have not yet progressed through the safety assessment phase of the authorisation. As a result, there is a need to consider potential safety risks arising from the proposal.

In May 2022, the FSA prepared a rapid risk assessment examining the food safety risk to consumers from consumption of the edible insects in scope of the proposal.

This assessment looked at a number of hazards, including allergenicity and microbial and heavy metal contamination. For a small subset of individuals with strong allergic reactions to shellfish (particularly crustaceans) and mites, it found the severity of illness had the potential to be 'high' (may cause anaphylactic shock). Consumers with high reactivity to shellfish crustaceans would need to minimise their exposure to insects, supported by appropriate labelling. Also, due to incomplete data the level of uncertainty for de-novo sensitisation to edible insect protein is 'medium'.

Across the remaining six categories examined, the assessment found risk estimates of either 'low' or 'very low', provided that appropriate practices are in place for all edible insects entering the food chain, including:

- Appropriate rearing practices;
- Insect feed adhered to hygiene limits and is not contaminated with; microorganisms or heavy metals;
- Some form of heat treatment is present prior to consumption; and
- Labelling makes clear the potential cross-reactivity and allergenicity concerns.

Note: This list is not exhaustive and derived from a rapid risk assessment of the issue.

Impact Consideration

Northern Ireland Impacts

As a result of the continued operation of EU food law in Northern Ireland, there is a possibility of either greater or reduced regulatory divergence regarding edible insect approvals under the policy proposal as compared to 'do nothing'.

The degree of divergence (or reduced divergence) will depend on the authorisation decisions the EU takes in relation to edible insect applications during the legislated transitional period in GB, as well as the rate of those decisions.

Overall, due to the small size of the edible insect's industry, and because individual edible insects will ultimately need to be authorised by the FSA or FSS (independent of

the decisions taken by the EU) to remain on the market in GB under both the status quo or the FSA's proposal, the overall risk of additional regulatory divergence through the proposal is low.

Other Impacts

Benefits

The proposal will amend retained EU law to ensure it reflects the GB regulatory context and market conditions.

In comparison to the current policy position, the proposed criteria for the legislated GB transitional period will provide a clear timeline and greater certainty about the pathway to continued authorisation in GB.

This proposal also provides clarity for local authorities and businesses as to which edible insects will be covered by the transitional arrangements, while setting a clear deadline for applicants to submit their applications for authorisation. As the amending legislation will be GB-wide, it will help to support a consistent policy approach across GB.

For similar reasons, the proposal will benefit consumers in GB, by supporting the edible insects industry to move towards authorisations for their products, enabling a more compliant market overall.

Costs

The FSA has not identified any significant impact from the proposal other than in relation to a negligible one-off familiarisation cost once the legislative changes are made, outlined below.

There will be one-off familiarisation costs which will be borne by Industry and Local Authorities as a result of the policy proposal.

The FSA estimates a total one-off familiarisation cost of £10,700 to businesses and Local Authorities in Great Britain.

- a. There is some uncertainty on the number of businesses involved in the edible insects market. Using available market intelligence it is estimated at least 30 firms in the Great Britain produce edible insect products and could be impacted.

- b. We estimate that it will take one manager per edible insect food business one hour to understand the legislative changes and disseminate the information to key staff within their firms.
- c. Applying the 2021 median hourly pay figures for managers and accounting for overheads, a total cost to businesses of £840 is calculated^[2] which translates to a negligible Equivalent Annual Net Direct Cost to Business (EANDCB).

The same methodology outlined above is used to calculate the familiarisation costs for Local Authorities. Using the Annual report on Local Authority food law enforcement, we assume that around 380 people across 206 Local authorities in Great Britain familiarise themselves with the legislative changes and that this takes one hour across all three of the regulations being transposed.

The FSA estimates a £9800 one-off familiarisation cost to Local Authorities responsible for food standards in Great Britain.

Engagement and Consultation Process

A four-week public consultation is being launched across the UK to provide interested parties with an opportunity to comment on the policy proposals for the future regulation of edible insects in GB.

This consultation period is relatively short in comparison to the optimal length of twelve weeks. This shorter consultation is due to the need for the FSA to conclude the process with sufficient time to allow for the use of European Union (Withdrawal) Act 2018 ('EUWA') powers, which expire at the end of 2022. These powers would be used to implement the legislation in the event the consultation responses are supportive.

Any responses to this consultation will be given careful consideration and a summary of responses received will be published on the FSA website within three months of the consultation closing.

^[2] Wage rates taken from the ONS' 2021 Annual Survey of Hours and Earnings (ASHE), table 14.6a.

Questions asked in this consultation:

1. What effects do you think there would be from the outlined policy proposal?
How could positive effects be increased, or negative effects be mitigated?
2. The outlined policy proposal provides a deadline of 31 December 2023 for food business operators (FBOs) to submit their application to the FSA or FSS.
3. This deadline has been identified as a date which takes into account the need to provide FBOs with sufficient time to prepare an application, and the public interest in novel foods progressing through the relevant authorisation process as quickly as possible.
4. Do you feel this deadline is appropriate, having regard to the balance between these considerations? If not, please propose the timeframe you consider to be acceptable with a justification.
5. For businesses producing insect protein, will the policy proposal affect your plans for your business (for example, expansion, or a change in the kinds of products produced)?
6. Please provide the name and location of your business in your response, noting the data received will be treated in accordance with the privacy policy.
7. Please include any other factors that you think should be considered by the FSA or FSS in relation to the regulation of edible insects in GB, or any other feedback.

Other relevant documents

[Regulation \(EU\) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation \(EU\) No 1169/2011 of the European Parliament and of the Council and repealing Regulation \(EC\) No 258/97 of the European Parliament and of the Council and Commission Regulation \(EC\) No 1852/2001 \(Text with EEA relevance\) \(legislation.gov.uk\)](#)

Responses

Responses are required by close 10 August 2022. 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).

If responding to the edible insects policy proposal, please send your response to:

Novelfoods@food.gov.uk

For more information on how the FSA handles your personal data, please refer to the [privacy notice](#).

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.

This consultation has been prepared in accordance with [HM Government consultation principles](#).

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

Yours,

Paul Tossell

Novel Foods and Radiological Policy

Policy 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

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. For example, a consultation.

What we do with it

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@food.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.

This consultation has been prepared in accordance with [HM Government consultation principles](#).

Annex B: List of interested parties for Edible Insects proposal

Beta Bugs Ltd

Better Universal Grub Ltd

Bug Farm Foods Ltd & Grub Kitchen

CF Banks Ltd t/a Instar Farming and Bugvita

Crunchy Critters

Eat Grub

Entocycle

Horizon Insects

MiniFeasts Ltd

Monkfield Nutrition

NewFoods Ltd t/a HOP

Nutribug

Poseative Ltd T/A Small Giants

ProSects Feed Ltd

Protein Rebel Ltd

Saved Food

Six Legs Farm

Throne Farms

Woven Network CIC

Yum Bug