The proposed approach to amendments to domestic Scottish food and feed legislation for EU Exit in a no deal scenario.

**Consultation Summary Page**

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| **Date consultation launched:** | **Closing date for responses:** |
| 26 July 2019 | 9 August 2019 |

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| **Who will this consultation be of most interest to?**  Enforcement authorities, food and animal feed businesses including manufacturers, wholesalers and retailers, in particular those involved in the manufacture and retail of blended honeys, natural mineral waters and products of animal origin. The consultation may also be of interest to health professionals, consumer groups and others with an interest in food and feed legislation. |

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| **What is the subject of this consultation?**  This consultation concerns proposed amendments to country of origin labelling of honey, recognition of natural mineral water and transitional arrangements for food labelling and health identification marks domestic legislation applying in Scotland to ensure that this legislation can continue to operate after the UK has left the European Union (EU) in a no deal scenario.  Where there are options for the more substantive amendments, these are described in detail in this document. |

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| **What is the purpose of this consultation?**  To seek the views of enforcement authorities, food businesses, consumers, other stakeholders and the wider public as to the proposed amendments and options to ensure Scottish domestic legislation can continue to operate once the UK has left the EU. Given the technical detail and specificity of the subject matter FSS would be happy to arrange an individual briefing session with those sectors most affected by the changes. For those interested, details of the proposed mechanisms for this are available on the landing page. |

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| **Responses to this consultation should be sent to:** | |
| Name Georgina Finch  Branch Regulatory Policy  Food Standards Scotland  Tel: 01224 288371  E-mail address: georgina.finch@fss.scot | Postal address:  Food Standards Scotland  Pilgrim House  Old Ford Road  Aberdeen  AB11 5RL |

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| **Is a Business & Regulatory Impact Assessment (BRIA) included with this consultation?** | Yes | No  See Annex A for reason. |

The proposed approach to amendments to domestic Scottish food and feed legislation for EU Exit in a no deal scenario.

DETAIL OF CONSULTATION

Food Standards Scotland (FSS) would welcome your comments on proposals detailed in this letter.

Introduction

We are consulting on proposed amendments to domestic legislation relating to:

1. Country of origin labelling of blended honey;
2. Recognition of natural mineral water;
3. Transitional arrangements for food labelling and health identification marks;

These proposed amendments are required to ensure that a range of provisions in domestic legislation can continue to operate after the UK has left the EU in a no deal scenario.

Background

Following the EU exit referendum result to leave the EU on 23rd June 2016, FSS, as the responsible non ministerial department for this policy area, has been reviewing the operability of all food and feed related legislation applying in Scotland, for which we have policy responsibility, in the event that the UK leaves the EU with no deal. The purpose of the review was to identify the legislative amendments needed to ensure that this legislation continues to operate effectively if the UK leaves the EU in these circumstances.

A number of necessary fixes have already been proposed to the directly applicable EU law in Scotland via UK legislation. The legislative amendments proposed in this consultation relate to necessary amendments to the existing Scottish domestic legislation which gives effect to this EU law in Scotland. Therefore options explained in this consultation would apply if the EU and the UK were not to agree a partnership arrangement and common approach to food legislation after the UK leaves the EU. In other words if the UK leaves the EU with no deal.

Proposals

##### Honey – Country of Origin Labelling

The Honey (Scotland) Regulations 2015 require that honey labelling must show the country of origin of the honey. To provide a degree of flexibility, where the honey is blended from more than one country of origin, in line with EU law, it may be labelled as ‘blend of EU honeys’, ‘blend of non-EU honeys’ or ‘blend of EU and non-EU honeys’ (as an alternative to the more prescriptive listing of each of the individual countries of origin).

However, once the UK leaves the EU, using only EU-focused terminology will not be appropriate in Scottish legislation.

##### Options:

###### **Option 1 - Do nothing**

If current rules for showing the honey’s country of origin were retained, without modification, labellers of blended honey would still mostly be driven by the need to show EU related terminology i.e. whether the honey originated from EU countries (of which the UK would not be one) or non-EU despite the UK no longer having a formal link with the EU.

In the event of a no-deal exit from the EU, trade would be based on World Trade Organisation (WTO) rules. This includes common rules that govern trade, one of which is the Most Favoured Nation (MFN) rule. The general rule is that, in the absence of a specific free trade agreement, all WTO members will enjoy the same treatment as the most favoured country. Retaining the current rules, only highlighting the EU as a key geographical descriptor would have the benefit of allowing many businesses to carry on as normal, with no relabelling costs, however it, might appear to give preferential treatment to the EU compared to other third countries and might therefore be in breach of WTO rules. There could be also be a risk of a complaint from another WTO member country.

***Option 2 – ‘a blend of honey from more than one country’***

The term ‘a blend of honey from more than one country’ could instead be shown on the label.

**This is being proposed as the preferred option in other parts of the UK.**

This option which although requiring initial labelling changes, would allow the use of the same label for all blended honey intended for UK domestic markets in the future. Only one form of words would be required for all blended honey “from more than one country”, thus making it easier for relevant food businesses. Business would be free, however, to supplement the label with more specific additional information.

While consumers would still be aware that the product consists of honey from differing origins, it would only give a very general indication, with, in our view, consequential limited value. In addition, in practice UK businesses blending honeys, who would wish to continue to place products on both the UK and EU market would no longer be able to use the same set of labels for the domestic and EU export markets, as this option would not meet the continuing requirements for blended honey being placed on the EU market.

**For example, certain UK businesses that blend honeys from only EU (and non UK) countries would require to put the new proposed mandatory UK term on product for the UK market and the existing term ‘blend of EU honeys’ for the EU export market with consequential additional labelling costs. We understand that at least one Scottish business is known to produce and market such products EU wide.**

Manufacturers would still be free to choose to list all of the countries of origin information in blends should they wish.

As part of this option, a transitional provision could be inserted to allow food businesses to place and keep on the market products labelled before exit day in compliance with the current EU-focused labelling requirements.

***Option 3 - UK’/’non-UK’***

Use of the terms ‘blend of UK and non-UK’ or ‘blend of non-UK’ on honey labels would be an alternative solution. However, this may be of no practical value because we understand that UK origin honey is considered a premium product and is generally sold as a single-origin product and rarely blended. Similar to option 2 above, this option would also increase the labelling burden on producers by requiring new labelling on blended honey from more than one country who currently use the ‘EU’/’non-EU’ wording (as opposed to listing countries of origin.).

In addition in practice UK businesses blending honeys, who would wish to continue to place products on both the UK and EU market would no longer be able to use the same set of labels for the domestic and EU export markets.

**For example, as outlined in option 2, certain UK businesses that blend honeys from only EU countries would require to put the new proposed mandatory non-UK term on product for the UK market and the existing term ‘blend of EU honeys’ for the EU export market. We understand that at least one Scottish business is known to produce and market such products EU wide.**

Manufacturers can still choose to list all of the countries of origin information in blends should they wish.

As part of this option, a transitional provision could be inserted to allow food businesses to place and keep on the UK market products labelled before exit day in compliance with the current EU-focused labelling requirements.

***Option 4* – *Flexible approach***

• A blend of honey from more than one country (or similar wording)

• A blend of honeys from a specified country (x) and countries outwith a specific trading bloc / continent (or similar wording)

• A blend of honeys from a specified continent or trading bloc (x) and countries outwith a specific trading bloc / continent (or similar wording)

This option would allow companies to use the approach proposed in other parts of the UK e.g. (blended honey from more than one country) where it suits them to do so. However, it benefits from providing greater flexibility to use other options, which should minimise the need for two different labels to be applied for the same product destined for both the domestic and export market. For instance, in the example given in option 2 and 3 above the business could use the same mandatory origin term for blended honey destined for the domestic market in Scotland and also export to the EU. However, as with the other options, it will continue to be possible that businesses who wish to provide more specific origin information can continue to do so. We believe this option would also be in line with WTO / MFN rules highlighted in option 1 as it would permit the use of all recognised countries/continents/trading bloc terms and thus be non-discriminatory.

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| Questions asked in this consultation:  **Q1: Would you agree with the assumption that Option 4 should provide the greatest flexibility and therefore have the least financial impact for affected Scottish businesses?**  **Q2: If you are directly involved in the process of manufacturing and / or retailing blended honeys could you please confirm and if possible quantify the additional cost burden of requiring different labelling for the Scottish and export markets.**  **Q3: What is your preferred option out of those described?**   1. I agree with policy option 1 2. I agree with policy option 2 3. I agree with policy option 3 4. I agree with policy option 4 5. I disagree with all policy options 6. I have no preference 7. I don’t know/don’t have enough information   **Q4: Do you consider a transitional period is necessary for options 2 and 3?**  Please provide evidence to support your views.  Please note that all options would continue to permit specific countries of origin to be listed instead. |

##### FSS wishes to use this consultation to gather evidence and would welcome comments on the proposed options. In particular, if you are a producer of honey or a packer of honey that blends honeys from more than one country, then we encourage you to respond to this consultation. In addition as mentioned in the introduction we would be happy to arrange to meet collectively or individually with affected businesses during the consultation to discuss further. Recognition of Natural Mineral Waters

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007 (as amended) implement EU law which requires natural mineral waters (NMWs) to go through a process of recognition to prove that they have the necessary composition and characteristics to be sold and marketed as natural mineral waters in all EU Member States. Recognition is carried out by individual Member States in line with EU rules, and products recognised in an individual member state are currently mutually recognised in all other EU countries in accordance with the EU provisions.

The EU Commission has indicated that unless a future trade agreement or an economic partnership agreement provide otherwise, NMWs that had their recognition process undertaken by the UK will no longer be recognised in the EU market after the UK leaves the EU. In summary, in the absence of a formal arrangement the Commission has advised that from the UK’s withdrawal date:

* Waters currently extracted from the ground of, and recognised by the United Kingdom as natural mineral waters shall be considered as extracted from the ground of a third country and should no longer be authorised for import into the European Union, unless they are recognised as such by the responsible authority of another Member State.
* Waters currently extracted from the ground of a third country and recognised as natural mineral waters by the responsible authority of the United Kingdom should no longer be authorised for import into the European Union, unless they are recognised as such by the responsible authority of another Member State.

There is a need to amend The Natural Mineral, Spring water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007 should the UK leave the EU with no deal. This is because if we were to leave the regulations un-amended, the current wording in the new context would not work:

* Currently, water extracted from the ground in another part of the UK which is recognised by a responsible authority under EU Directive 2009/54 is recognised in Scotland. After EU exit the Directive will not form part of domestic law so references to it do not work as responsible authorities will not be recognising water under this Directive. There is a risk that if reference to the Directive is left in the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007 then water from other parts of the UK could not be traded in Scotland.
* To ensure continued operability, the regulations must be amended to recognise the UK’s new status out-with the EU.

The current Scottish implementing legislation provides for non EU producers of natural mineral waters to submit individual applications to trade in Scotland to Food Standards Scotland. The process involves providing a large and complex amount of data, which in most cases needs to be gathered for up to two years prior to application. For successful applications, recognition lasts for five years, after which the producer must renew their recognition under a simplified process based on information supplied by the relevant authorities in the source country. In a no deal EU exit scenario where the EU and the UK were not to agree a partnership arrangement and common approach to NMW recognition, EU countries would become third countries and to comply with WTO rules, the domestic legislation concerning exploitation and marketing of NMWs would apply equally to producers based in an EU Member State, European Economic Area (EEA) member countries and existing third countries.

###### **Options for change – Recognition of natural mineral waters:**

###### **Option 1- Do nothing**

This option, to leave the regulations as they are in a no deal situation, would result in automatic recognition of EU NMWs including any new ones placed on the market after the UK leaves the EU. In the event of a no-deal EU exit this could be seen as preferential treatment to EU countries, risking a complaint from a WTO country. It is also likely to mean that we would be unable to recognise NMWs produced in the other parts of the UK and that these could not be traded in Scotland until an application for recognition was made to Food Standards Scotland.

###### **Option 1A – minimal change approach**

This option would be to amend the regulations only in so far as is necessary to continue recognition of NMWs produced in other parts of the UK. It would not affect the position of NMWs recognised by other EU Member States and EEA countries as described above.

###### **Option 2 – Removing the existing recognition for EU recognised natural mineral waters from day 1 after the UK’s exit from the EU**

This option would be to amend the regulations in order to maintain the current position of recognising NMWs produced in the other parts of the UK. In the case of NMWs that had their recognition process undertaken in the EU and EEA, this option would mean that EU and EEA NMWs would no longer be recognised in Scotland immediately after exit from the EU. These NMWs would need to submit an application to one of the UK administrations to secure recognition before they could be legally sold as NMW in the UK.

This option would not maintain continuity for businesses, and could give rise to the following effects:

1. Impact on consumer choice of available natural mineral water (as many as one in every three bottles of NMW sold in the UK are imported from the EU).
2. Potential fluctuation in prices for the consumer, due to significant differences in marketing rules.
3. Market changes which could potentially modify consumer consumption patterns i.e. resulting in consumers choosing a different category of water, i.e. spring, bottled drinking water, or tap water, or substituting with a beverage, such as flavoured waters and other soft drinks, affecting therefore all NMW producers.
4. Potential opportunities for producers of Scottish NMWs to expand their market share.

We recognise that this option would also have an impact on businesses holding stock were the UK to exit the EU. We would like information and evidence on the extent of these impacts and to what extent a transitional arrangement (whereby existing stock could be sold, but no new product imported) would mitigate against these impacts.

###### **Option 3 – Rolling over of recognition of existing EU and EEA natural mineral waters and introducing a notice period for withdrawal of that recognition. This is the approach proposed to be adopted in other parts of the UK.**

As is being proposed in the other parts of the UK, it is possible to take a unilateral approach and roll over existing recognitions of NMWs sourced in the EU. This would provide continuity and stability for businesses and consumers at the point of exit.

Rolling over the recognition of existing EU NMWs allows maintenance of the status quo for existing NMWs, wherever in the EU the recognition process took place. This reflects the position that recognised NMWs met the relevant safety and compositional standards at the time of EU exit and therefore there is no reason to assume that they are not compliant immediately after EU Exit.

However, the UK Government propose that the continuation of that arrangement would only be guaranteed for the first six months after EU Exit and not in perpetuity. Thereafter, a decision could be made by the Secretary of State in England, or the Scottish Ministers in Scotland should we adopt the same approach at some time in the future to withdraw the rolled-over recognitions, depending on the outcome of negotiations with the EU with respect to mutual recognition, after a given period of notice.

If a decision were to be made for recognition of EU NMWs to be withdrawn, after the initial six months plus the notice period, it would then be necessary for such waters to be formally recognised in Scotland by businesses making a new application under the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007. These waters would no longer be able to be marketed pending the outcome of that application process.

This option would effectively delay the need for NMWs that had their recognition process undertaken elsewhere in the EU to undergo an immediate UK recognition process on exit, ensuring continued stability in the market, which could otherwise affect market prices and consumer choice and confidence immediately after exit.

At the same time this option would give Scotland, working with the other administrations in the UK, more time for consideration and an added period of flexibility to decide if, and when, to require the producers of NMWs that had their sources recognised elsewhere in the EU, to make representations of their safety and quality conditions to administrations in the UK. This would enable Scotland and the other administrations in the UK to maintain full control of the recognition, quality and safety of NMWs that had their sources recognition procedure undertaken elsewhere in the EU.

However, as this option does not put a time limit on the recognition, it is possible that in the event of a no-deal EU exit this could be seen as preferential treatment to EU countries, risking a complaint from a WTO country.

**Option 4 – Rolling over of recognition of existing EU and EEA natural mineral waters for five years**

For NMWs that had their recognition process undertaken elsewhere in the EU or EEA this option proposes continued recognition in Scotland for a period of five years after the UK leaves the EU. At that point, the waters would be required to undergo a recognition process in order to continue to be sold in Scotland at the end of the five year period. This is in line with current non-EU country producers who are required to renew their recognition after five years and so should avoid any MFN WTO complaint.

This option would delay the need to process applications for five years ensuring stability in the market and consumer choice and confidence in the interim. It is consistent with the approach of maintaining EU recognition arrangements in other areas of food law e.g. recognition of existing nutrition and health claims and permitted food additives. It also provides some certainty as to when the recognition review date of existing products would occur.

Similar to option 3, rolling over the recognition of existing EU and EEA NMWs allows maintenance of the status quo for existing producers of NMWs, wherever in the EU or EEA the recognition process took place. This reflects the position that recognised NMWs were safe and met the appropriate marketing standards at the time of EU exit and therefore there is no reason to assume that they do not meet those standards immediately after EU Exit.

This option would maintain marketing rights for existing recognised EU products, but any new products would require to be the subject of the new Scottish recognition process.

However, this approach is not in line with the proposed final position in other parts of the UK and unless equivalent Regulations in other parts of the UK were modified, eventually there could be different standards and permissions applying to products marketed in each of the UK countries.

In addition, given that the EU have announced that they would require currently recognised UK natural mineral waters to go through a new application process before they could be recognised, existing Scottish producers exporting to the EU could be disadvantaged when compared to EU importers at least in the short term.

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| **Q5: What is the best option out of those described? Please comment to support your view.**   1. I agree with policy option 1 2. I agree with policy option 1A 3. I agree with policy option 2 4. I agree with policy option 3 5. I agree with policy option 4 6. I disagree with all policy options 7. I have no preference   **Q6: If your preferred option is Option 2, how long would a transitional period need to be to ensure that the impacts were mitigated against?**  **Q7: Particularly for those Scottish businesses involved in either the retail and / or manufacture of natural mineral waters, it would be useful to obtain confirmation that we have correctly identified the potential impacts of applying the options outlined and to receive any additional information about any other potential impacts we may have overlooked. Estimated indicative costings associated with the respective options would also be welcomed if this is possible?** |

## FSS wishes to use this consultation to gather evidence and would welcome comments on the proposed options. In particular, if you are a producer or retailer of natural mineral waters, then we encourage you to respond to this consultation. In addition as mentioned in the introduction we would be happy to arrange to meet collectively or individually with affected businesses during the consultation to discuss further.

## Transitional provisions

A number of amendments have been or are in the process of being made to directly applicable EU law and national legislation on food safety and labelling. They include the following:

* The requirement for labels to show the name and address of the food business operator (FBO) responsible for the information on the food – pre packed food placed on the UK market will need a UK address for either the name and address of the operator under whose name the food is marketed in the UK, or, where they are not established in the UK, the name and address of the importer into the UK. An address in the EU alone will no longer be sufficient. This will be relevant to those UK food retailers who currently source part of their range from within the EU, or from 3rd countries via a distributor based in one of the other EU member states.
* The requirement for labels to show the country of origin of certain types and categories of food, and for any prepacked food where failure to provide it would lead to consumers being misled – currently an origin indicator given as “EU” can include the UK. Following the UK’s exit from the EU this will no longer be factually correct and some other form of demarcation will be needed. This means that where food originating in the UK is currently labelled using “EU” as an origin indicator, after EU Exit it will need to change. For example, in the case of origin indicators used for minced meat, these will no longer refer to “EU” and “non-EU” but instead will use “UK and “non-UK”.
* The requirement for identification marks to be applied to the packaging of products of animal origin (POAO), such as fresh meat and meat products, fishery products, and dairy products, to show that food of animal origin has been produced in accordance with all relevant food hygiene and safety requirements – EU law currently requires such marks to contain the identifier “EC”. On exit from the EU, the requirement is that the identification mark will have the “UK or ‘GB’ abbreviation or ‘UNITED KINGDOM’. It will continue to be a single mark incorporating the establishment approval number. This change ensures that UK products continue to display an appropriate mark that clearly shows the product has been subject to the strict food requirements and checks that will continue after the UK leaves the EU. This marking is for the purposes of assisting official control verification of products and is not concerned with origin information for consumers.

FSS considers that an appropriate period of adjustment and transition should be granted for these areas, following the UK’s exit from the EU, during which food meeting the labelling requirements in place prior to leaving the EU may continue to be placed on, or remain on, the UK market for the purpose of using up existing labelling stocks during the transition.

This would mean that food businesses could, for a specified period of time. .continue to label foods and place them on the UK market even if the food displays–

* The food business’/importers’ address in an EU member state
* A country of origin indication of “EU” or “non-EU”
* An identification mark that contains the “EC” abbreviation

A transition period of 21 months has been agreed in principle to be applied across the UK to ensure consistency of approach. However, the expectation is that businesses would use the transition period to review labelling whilst working closely with their local authorities on how best to deliver the new labelling requirements as quickly as possible and the purpose of the transition is specifically to avoid unnecessary wastage associated with existing labelling stocks already delivered or financially committed at the point of EU exit. Food Business Operators will still require to meet the full labelling requirements for products destined for export markets.

**Option 1 – apply a transitional period in law**

A transitional provision would be inserted into the following domestic law in Scotland:

* The Food Information (Scotland) Regulations 2014
* The Country of Origin of Certain meats (Scotland) Regulations 2015
* The Caseins and Caseinates (Scotland) (No. 2) Regulations 2016
* The Food Hygiene (Scotland) Regulations 2006
* The Honey (Scotland) Regulations 2015
* The Quick-frozen Foodstuffs Regulations 1990
* The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013

Providing statutory underpinning would mean that businesses in Scotland could have some assurance that products already labelled and packaged could remain on the UK market and businesses could also use up existing stocks of labels and pre-printed packaging within the transition period. This would broadly be in line with the approach proposed to be adopted in the rest of the UK in these areas, but would have due regard to the different legal systems and enforcement arrangements which apply in Scotland.

However, specifically with respect to the use of the term “EU” within the ID marks, the European Commission have expressed the view that oval identification marks are the intellectual property of the EU and unauthorised use should not be permitted. This provision would therefore not give businesses protection against the risk of civil action being initiated by the EU during that time.

The risk of such action is considered to be low, so long as adequate controls are in place to ensure that such products are restricted to the UK and do not find their way onto other member state markets which will not be permitted.

**Option 2 – Provide no transitional arrangements in law and rely on existing enforcement good practice.**

Instead of introducing legally underpinned provisions, Food Authorities (local authorities) could be reminded of their obligations outlined in the Food Law Code of Practice (the Code) i.e. to ensure that any enforcement action taken is reasonable, proportionate, risk-based and consistent with good practice and the principles of Better Regulation set out within the Scottish Regulators’ Strategic Code of Practice and reference made that such principles might mitigate against enforcement action being initiated during the proposed transitional period.

Although interpretative guidance on enforcement matters is routinely issued by FSS through enforcement letters to local authorities, it would not be normal for such guidance to be explicitly targeted for such purposes as that intended by the transition. Furthermore, FSS has received legal advice that no specific information which might be interpreted as a direction not to initiate legal proceedings where technical offences are created should be issued to local authorities in Scotland, and advised that ultimately decisions regarding prosecution in Scotland are entirely a matter for the Lord Advocate and Procurator Fiscal.

**For these reasons Option 1 is considered to be preferable.**

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| **Q8: Do you consider that transitional periods between the existing law and the law to apply in Scotland were the UK to leave the EU are necessary in each of the areas mentioned above?**  **Q9: Do you agree that the proposed transitional period should be applied consistently across the UK?**  **Q10: Which do you consider to be the best option for the transitional period?**   1. I agree with policy option 1 2. I agree with policy option 2 3. I disagree with all policy options 4. I have no preference   **Please provide evidence to support your view.** |

## Impact - The following is Food Standards Scotland’s initial assessment of impact, subject to further information supplied by affected parties during the consultation.

### Impact of changes to the Honey Regulations

We anticipate that the key costs are not significant for policy option 4 since this option allows for the status quo whilst satisfying WTO MFN rules. As such no economic impact has been foreseen, since there would be no difference to what is actually occurring right now.

On options 2 and 3, the key costs would be those related to relabelling, and familiarisation costs. This would affect all businesses producing blended honeys from more than one country currently using the EU / non-EU terminology. The inclusion of the proposed transitional period could give businesses more time to comply with the new requirements and allow for relabelling costs to be subsumed into planned labelling changes.

On option 1, the key impacts are likely to be reputational for the Scottish government if a complaint is made to WTO under MFN rules.

We wish to use this consultation to gather evidence and would welcome comments on any costs or benefits which you think we may not have considered or alternative views about the assumptions made in this section.

### Impact of changes to the NMW Regulations

On natural mineral waters, the key costs by ‘main affected groups’ are not significant for Policy Option 3 and Option 4 since these options represent the status quo immediately after EU Exit. As such no immediate economic impact has been foreseen, since there would be no difference to what is actually occurring at the moment. In terms of the keybenefitsby ‘main affected groups’, it maintains the current level of consumer choice, market stability, both in terms of prices and market share.

On Policy Option 2, the key costs by ‘main affected groups’ when comparing to Option 1 (the baseline), the economic cost to UK businesses of this option is not considered to be significant: the absolute value of the economic impact of EU businesses losing UK recognition will not have a negative economic impact on Scottish businesses.

In terms of wider impacts on UK businesses, this option may potentially bring costs to UK based companies which traditionally store and sell only EU brands. If affected, some small businesses, may face costs in finding new products/distribution networks.

We wish to also use this consultation to gather evidence and would welcome comments on any costs or benefits which you think we may not have considered or alternative views about the assumptions made in this section.

**Impact of transitional arrangements**

The nature of transitional arrangements is to reduce costs for businesses who require to implement changes to labelling as a result of EU exit.

Irrespective of the approach taken to transitional arrangements (i.e. Option 1 or 2) the effect of both would be to give businesses more time to comply with the new requirements and allow for relabelling costs to be subsumed into planned labelling changes. The costs associated with any changes to the labelling requirements result entirely from the UK’s decision to leave the EU and therefore the requirements set out in changes to retained EU law rather than domestic law.

FSS does not propose producing a Business and Regulatory Impact Assessment at present but will revisit, depending on stakeholder feedback.

**Consultation Process**

This consultation will last for two weeks to provide interested parties in Scotland with the opportunity to comment on the proposals. Any responses received as part of this consultation will be given careful consideration and a summary of the responses received will be published on the FSS website within 3 months following the end of the consultation period.

England, Northern Ireland and Wales have consulted on similar proposals regarding their own domestic regulations.

### Groups affected

The proposals will be relevant to all Scottish food businesses, Local Authority enforcement officers as well as consumers and other stakeholders with an interest in UK food law.

Businesses and food law enforcement stakeholders will want to familiarise themselves with the main corrections which are being proposed, and which will require action from them to ensure they continue to operate effectively after the UK leaves the EU.

**Summary of questions asked in this consultation**.

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| Honey – Country of Origin Labelling  **Q1: Would you agree with the assumption that Option 4 should provide the greatest flexibility and therefore have the least financial impact for affected Scottish businesses?**  **Q2: If you are directly involved in the process of manufacturing and / or retailing blended honeys could you please confirm and if possible quantify the additional cost burden of requiring different labelling for the Scottish and export markets.**  **Q3: What is your preferred option out of those described?**   1. I agree with policy option 1 2. I agree with policy option 2 3. I agree with policy option 3 4. I agree with policy option 4 5. I disagree with all policy options 6. I have no preference 7. I don’t know/don’t have enough information   **Q4: Do you consider a transitional period is necessary for options 2 and 3?**  Please provide evidence to support your views.  Please note that all options would continue to permit specific countries of origin to be listed instead.  Recognition of natural mineral waters  **Q5: What is the best option out of those described? Please comment to support your view.**   1. I agree with policy option 1 2. I agree with policy option 1A 3. I agree with policy option 2 4. I agree with policy option 3 5. I agree with policy option 4 6. I disagree with all policy options 7. I have no preference   **Q6: If your preferred option is Option 2, how long would a transitional period need to be to ensure that the impacts were mitigated against?**  Q7: Particularly for those Scottish businesses involved in either the retail and / or manufacture of natural mineral waters, it would be useful to obtain confirmation that we have correctly identified the potential impacts of applying the options outlined and to receive any additional information about any other potential impacts we may have overlooked. Estimated indicative costings associated with the respective options would also be welcomed if this is possible?  Transitional arrangements  **Q8: Do you consider that transitional periods between the existing law and the law to apply in Scotland were the UK to leave the EU are necessary in each of the areas mentioned above?**  **Q9: Do you agree that the proposed transitional period should be applied consistently across the UK?**  **Q10: Which do you consider to be the best option for the transitional period?**   1. I agree with policy option 1 2. I agree with policy option 2 3. I disagree with all policy options 4. I have no preference   **Please provide evidence to support your view** |

Other relevant documents

N/A

Responses

This is a shortened 2 week consultation and therefore responses are required by close…………….... If you anticipate this timescale will create difficulties for you in responding please get in touch with us.

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 you are replying by post then please note our updated address details below.

We will summarise all comments received and the official response to each will be published on the FSS website within three months following the end of the consultation period.

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

Yours sincerely,

### Georgina Finch

Policy Advisor

Regulatory Policy Branch

Food Standards Scotland

01224 288371

### Enclosed

Annex A: Standard Consultation Information

Annex B: Business & Regulatory Impact Assessment [Delete if BRIA not included and reason given in Annex A]

Annex C: Draft Scottish Statutory Instrument [if applicable]

Annex D: List of interested parties

Annex E: Consultation Feedback Questionnaire [hard copy version only

Annex F: Data Protection Form [hard copy version only]

### Queries

1. If you have any queries relating to this consultation please contact the person named on page 1, who will be able to respond to your questions.

### GDPR, Publication of personal data and confidentiality of responses

1. The European General Data Protection Regulation (GDPR) replaces the Data Protection Directive 95/46/EC and was developed to harmonize data privacy laws across Europe. In accordance with the GDPR, we are required to provide a privacy notice in relation to this public consultation. Food Standards Scotland will be known as the “Controller” of the personal data provided to us. We need to collect this information to allow us to effectively carry out our official duties of policy development and for the purposes of record keeping. In responding to this consultation, you have consented to provide this information to us but are able to withdraw your consent at any time by getting in touch with us.
2. Personal information is stored on servers within the European Union and cloud based services have been procured and assessed against the national cyber security centre cloud security principles. Personal information will not be used for any purpose other than in relation to consultations. Personal information will be stored for as long as necessary to carry out the above functions and for five years from receipt in accordance with our retention policy. No third parties have access to your personal data unless the law allows them to do so.
3. 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). Our Data Protection Officer in the FSS is the Head of Corporate Services who can be contacted at the following email address: [dataprotection@fss.scot](mailto:dataprotection@fss.scot)
4. In accordance with the principle of openness, our office in Pilgrim House in Aberdeen will hold a copy of the completed consultation as per our retention policy. FSS will not publish anything without your consent. If you have any queries please email:  [dataprotection@fss.scot.](mailto:dataprotection@fss.scot.)  or return by post to the address given on page 1.
5. In accordance with the provisions of Freedom of Information Act (Scotland) 2002/Environmental Information (Scotland) 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 FSS. However, we will take into account your views when making this decision.
6. 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

1. A list of interested parties to whom this letter is being sent appears in Annex D. 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.
2. Please contact us for alternative versions of the consultation documents in Braille or other languages.
3. Please let us know if you need paper copies of the consultation documents or of anything specified under ‘Other relevant documents’.
4. This consultation has been prepared taking account of the Consultation Criteria.
5. The Consultation Criteria from that Code should be included in each consultation and they are listed below:

**The Seven Consultation Criteria**

**Criterion 1** **— When to consult**

*Formal consultation should take place at a stage when there is scope to influence the policy outcome.*

**Criterion 2** **—** **Duration of consultation exercises**

*Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.*

**Criterion 3 —** **Clarity of scope and impact**

*Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.*

**Criterion 4** **—** **Accessibility of consultation exercises**

*Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.*

**Criterion 5 —** **The burden of consultation**

*Keeping the burden of consultation to a minimum is essential if consultations are*

*to be effective and if consultees’ buy-in to the process is to be obtained.*

**Criterion 6 —** **Responsiveness of consultation exercises**

*Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.*

**Criterion 7** **—** **Capacity to consult**

*Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.*

1. Criterion 2 states that *Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible*. This consultation is not being held for a full 12 weeks in order to achieve the laying deadline for EU Exit
2. The Code of Practice states that an Impact Assessment should normally be published alongside a formal consultation. However, this consultation is concerned mainly with technical amendments to domestic legislation with costs expected to be restricted to those for familiarisation. For that reason no Business and Regulatory Impact Assessment has been completed. We are requesting further information on cost assumptions in our consultation.

### Comments on the consultation process itself

1. We are interested in what you thought of this consultation and would therefore welcome your general feedback on both the consultation package and overall consultation process. If you would like to help us improve the quality of future consultations, please feel free to share your thoughts with us by sending an email to [openness@fss.scot](mailto:openness@fss.scot) or return by post to the address given on page 1.