

**EXPLANATORY MEMORANDUM TO**  
**The Fish Labelling (Wales) (Amendment) Regulations 2014**

This Explanatory Memorandum has been prepared by the Food Standards Agency (FSA) 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 Fish Labelling (Wales) (Amendment) Regulations 2014. I am satisfied that the benefits outweigh any costs.

Mark Drakeford AM

Minister for Health and Social Services, one of the Welsh Ministers

19 November 2014

**EXPLANATORY MEMORANDUM TO  
The Fish Labelling (Wales) (Amendment) Regulations 2014**

**1. Description**

The Fish Labelling (Wales) (Amendment) Regulations 2014 introduce new mandatory labelling requirements contained in Regulation (EU) No 1379/2013.

**2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee**

None.

**3. Legislative Background**

The powers enabling this instrument to be made are conferred by section 16(1), 17(2), 26(3) and 48(1) of the Food Safety Act 1990 and section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972.

This instrument is subject to the negative procedure.

**4. Purpose and Intended Effect of the Legislation**

These Regulations allow for the enforcement of Regulation (EU) No 1379/2013, which extends the existing requirement to show consumers where or whether fish were caught or farmed, and the species, by including information on:

- the equipment used to catch the fish
- the date of minimum durability.

**5. Consultation**

An eight week public consultation was carried out in Wales from 18 August to 13 October 2014. **No responses were received.**

**6. Regulatory Impact Assessment**

**Affected Groups**

The rules apply to labelling of fish and providing information at the retail stage, therefore those parties who sell directly to the consumer will have to make sure that what they sell complies with the law. Retailers will need to work with their suppliers

to make sure that they agree on the approach for making the information available, whether this is on the packaging or, for non-prepacked fish at the retail stage, by making use of a derogation that allows the retailer to communicate the required information through a poster or billboard.

Data from the 2013 Seafish Report<sup>1</sup> estimates that total purchases of seafood in the UK are estimated to have been around £6.2 billion in 2012.

### Seafood processors and preservers

Although processors and wholesalers are unlikely to be selling products directly to the consumer they will be affected by any labelling changes requested by their buyers. Retailers may decide not to make use of the derogation mentioned above and request that processors incorporate this into the product label. This will very much depend on the commercial situation of each business and what suits them best.

Data from the Inter Departmental Business register (IDBR) 2010 estimates that there were approximately 400 firms that process and preserve seafood in the UK, the majority of which are micro and small size businesses. Of the total number of processors and preservers in the UK, only 5 are located in Wales.

**Table 1: Seafood processors and preservers in the UK, by regional breakdown**

	Micro	Small	Medium	Large	Total
England	109	57	23	6	195
Wales	3	1	1	0	5
Scotland	98	51	21	5	175
Northern Ireland	14	7	3	1	25
UK	224	116	48	12	400

### Seafood wholesalers

IDBR data (2010) estimates that there are 1,680 seafood wholesalers in the UK, of which 97 per cent are micro and small sized businesses.

Of the total number of seafood wholesalers, about 3% operate in Wales.

---

<sup>1</sup> <http://www.seafish.org/research-economics/market-insight/market-summary>

**Table 2: Seafood wholesalers in the UK, by regional breakdown**

	Micro	Small	Medium	Large	Total
England	1,037	228	39	0	1,304
Wales	40	9	2	0	51
Scotland	199	44	8	0	251
Northern Ireland	60	13	2	0	75
UK	1,336	294	51	0	1,681

### Retailers

Ultimate legal responsibility will lay with those who sell directly to the consumer as this is where the rules apply. Retailers will need to work closely with their suppliers and processors to ensure that the products are sold in compliance with the rules. There maybe work required in order to ensure that the relevant information flows along the supply chain so all mandatory information is provided to the customer.

IDBR (2010) estimates that there are 53,070 UK food and drink retailers, of which 99 per cent are micro and small sized businesses.

Of the total number of retailers, about 5% of the businesses operate in Wales.

**Table 3: Retailers in the UK, by regional breakdown**

	Micro	Small	Medium	Large	Total
England	40,387	3,236	232	70	43925
Wales	2,294	184	13	4	2495
Scotland	4,423	354	25	8	4810
Northern Ireland	1,692	136	10	3	1841
UK	48,796	3,910	280	85	53071

The Seafood sector is worth an estimated £5.84bn in total spend split between £2.84bn in retail and £3.0bn for the food service sector. Supermarkets dominate the seafood retail market with over 87% share of spend.

## Government

It will be the responsibility of Local Authority Trading Standards officers to familiarise themselves with the new requirements in order to make sure that the new rules are adhered to.

These Regulations will make use of civil as opposed to criminal sanctions through the use of Improvement Notices. This standardised approach to enforcement, serving an improvement notice on a trader where an authorised officer has reasonable grounds for believing that the trader has not complied with, or is unlikely to comply, with an obligation in EU law will be taken in the case of the Fish Labelling Regulations 2013, as amended by the Fish Labelling (Wales) (Amendment) Regulations 2014, the Food Information (Wales) Regulations 2014, which enforce Regulation EU 1169/2011, and a number of other food based commodity Regulations.

Local authority enforcement officers already use the improvement notice approach for the Fish Labelling Regulations (Wales) 2013 so it is anticipated that there will be no additional costs for adding the two new consumer information requirements.

There are currently 533 local authorities in the UK of which 22 are located in Wales.

**Table 4: Number of local authorities in the UK**

	Number of local authorities
England	433
Wales	22
Scotland	32
Northern Ireland	26
UK	513

### Source

(1) England – 433 – <http://www.communities.gov.uk/newsroom/factsandfigures/local/facts/localgovernment/?id=1682861>

(2) Scotland – 32 – [http://www.direct.gov.uk/en/dl1/directories/devolvedadministrations/dg\\_4003604](http://www.direct.gov.uk/en/dl1/directories/devolvedadministrations/dg_4003604)

(3) Wales – 22 – <http://wales.gov.uk/topics/localgovernment/localauthorities/?lang=en>

(4) Northern Ireland – 26 – [http://www.doeni.gov.uk/index/local\\_government/council\\_structure.htm](http://www.doeni.gov.uk/index/local_government/council_structure.htm)

## Consumers

The Regulations will provide consumers with more information about the fish with the inclusion of information about the equipment used to catch the fish and the date of minimum durability. This additional information should help boost consumer confidence when purchasing fishery products as they become aware of the extra information that is now available to them. Whilst the legislation is not expected to place costs directly on consumers, it is possible that where costs arise along the supply chain (e.g. to processors, wholesalers, retailers) these costs could be passed along the chain and

ultimately be reflected (partially or wholly) in higher prices for those products on sale to consumers. However, as the changes are relatively small, it is assumed that these would be negligible.

## Costs

### Industry

#### One-Off Familiarisation Costs

There will be a one-off cost to industry for reading and familiarising themselves with the new Regulations. Familiarisation costs are measured in terms of time costs and are therefore quantified by multiplying the time it takes for an official to read and familiarise him/herself with the Regulation by their wage rate.

Time will be spent acquiring, reading and understanding the legislation, seeking external advice where necessary. Across the supply chain, it is assumed that micro and small businesses will require 1 hour to familiarise themselves. This is also the case for medium and large businesses with an additional hour to disseminate to other colleagues. The average hourly rate is up rated by 30% to take account of overheads in line with standard cost model methodology.

**Table 5: Total familiarisation costs to business, by regional breakdown and Equivalent Annual Cost to Industry by Country**

	Number of processors, wholesalers and retailers	Total relabelling cost	EAC
England	45425	£746,545	£86,730
Wales	2550	£42,006	£4,880
Scotland	5235	£85,672	£9,953
Northern Ireland	1940	£31,807	£3,695
UK	55150	£906,031	£105,258

In order for one-off costs to be compared to annual costs on an equivalent basis across the time span of the policy, one-off costs are converted into Equivalent

Annual Costs (EACs) by dividing the one-off cost by an annuity factor.<sup>2</sup> The total one-off familiarisation cost to businesses in Wales translates to an equivalent annual cost of £4,880 over a ten year period.

### One off labelling costs

To provide an estimate of the labelling costs, we use the Kantar dataset<sup>3</sup>, which provides us with an estimate of the number of fishery products that are being purchased in the UK. This stands at 2,775 for 2011 which is multiplied by the trimmed mean cost of re-labelling per stock keeping unit (SKU) for minor changes £1,800 (table below).

Extent of change	Average cost (£/SKU)	Mean Trimmed (£/SKU)
Minor change	£1,180	£1,800
Major change	£3,800	£3,300

Source: Developing a framework for assessing the costs of labelling changes in the UK

The Kantar dataset states that a change was considered as minor when only the text was changed on a single face of the label and no packaging size modification was required to accommodate this.

For the purposes of this impact assessment, the cost estimates are established with a baseline that assumes that EU Regulation 1169/2011, the Food Information for Consumers Regulation (FIC) is already in place. The majority of the mandatory labelling requirements of FIC will be coming into force at the same time as these Regulations (13 December 2014), so the purpose in this assessment is to capture those costs that can be directly attributed to fish labelling legislation that is not introduced by other regulatory means.

The costs of making changes to product labels are estimated in this impact assessment using the methodology in the Defra and Campden BRI study 2010: Developing a Framework for Assessing the costs of Labelling Changes in the UK.

The nature of the labelling changes that may be required as a result of these regulatory requirements are expected to be minor. This is based on the fact that any additional wording or description will be text only and should not necessitate the need for a packaging re-size.

---

<sup>2</sup> The annuity factor is essentially the sum of the discount factors across the time period over which the policy is appraised.

<sup>3</sup> Source: Kantar world panel. The Kantar world panel (25,000 UK household panel) are asked to record every item purchased and brought into the household over a 52 week period. So this number reflects the number of different products purchased in the 52 weeks up to April 2011.

There may be implications for products that are small in size as there would be a greater risk that any additional information could not be accommodated without increasing the size or shape of the packaging and therefore increasing costs.

The total cost estimate for re-labelling is equivalent to **£4,995,000**. The EAC to UK industry is £580,295. In Wales the total cost is £230,956 with an EAC of £26,831.

**Table 6: Relabelling cost to UK industry.**

	Number of processors, wholesalers & retailers	Total relabelling cost	EAC
England	45,425	£4,114,195	£477,967
Wales	2,550	£230,956	£26,831
Scotland	5,235	£474,140	£55,083
Northern Ireland	1,940	£175,708	£20,413
UK	55,150	£4,995,000	£580,295

## **Government**

### **One-Off Familiarisation Costs**

Local authority enforcement officers will also need to become familiar with the updated Regulations. It is estimated that it would take one Trading Standards officer, 1 hour to read and become familiar with the Regulations and disseminate them to key staff. The average hourly pay rate for Inspectors of standards and regulations<sup>4</sup> is shown in the table below. This has been up-rated by 30% to account for overheads, in accordance with the standard cost model<sup>5</sup>.

<sup>4</sup> 2011 Annual survey of Hours and Earnings

<sup>5</sup> <http://www.berr.gov.uk/files/file44503.pdf> [http://www.statistics.gov.uk/downloads/theme\\_labour/ASHE-2009/2009\\_occ4.pdf](http://www.statistics.gov.uk/downloads/theme_labour/ASHE-2009/2009_occ4.pdf)



**Table 7: Familiarisation costs for trading standards officers, by regional breakdown and as Equivalent Annual Cost to Enforcement by Country**

	Number of local authorities	Median average hourly rate (uprated by 30% for overheads)	Total familiarisation cost	EAC
England	433	£18.01	£7,798	£906
Wales	22		£369	£46
Scotland	32		£576	£67
Northern Ireland	26		£468	£54
UK	513		£9,211	£1,073

The total one-off familiarisation cost to local enforcement bodies in Wales translates to an equivalent annual cost of £46 over a ten year period.

### **Enforcement**

We envisage no incremental costs for local enforcement authorities as we assume the impact on Local Authorities and the Competent Authority (FSA) would be negligible.

### **Consumers**

We envisage no incremental costs for consumers. Whilst the legislation is not expected to place costs directly on consumers, it is possible that where costs arise along the supply chain (e.g. to processors, wholesalers, retailers) these costs could be passed along the chain and ultimately be reflected (partially or wholly) in higher prices for those products on sale to consumers. However, as the changes are relatively small, it is assumed that these would be negligible.

### **Benefits**

#### **Consumers**

There will be non-monetised benefits to the consumer as a result of the additional information that is required at the point of retail. The extra information will allow them to make a more informed choice about the fish they purchase and increase confidence in the product as they will know more about how the fish was caught, as well as having a date of minimum durability. The extra information is intended to increase consumer knowledge as the information required as part of making a sustainable choice will be evident at the point of retail.