



Northern Ireland
Assembly

Windsor Framework Democratic Scrutiny Committee

OFFICIAL REPORT (Hansard)

Directive (EU) 2024/1438 Amending Council
Directives 2001/110/EC, 2001/112/EC, 2001/113/EC
and 2001/114/EC: Food Standards Agency Northern
Ireland

6 June 2024

NORTHERN IRELAND ASSEMBLY

Windsor Framework Democratic Scrutiny Committee

Directive (EU) 2024/1438 Amending Council Directives 2001/110/EC, 2001/112/EC, 2001/113/EC and 2001/114/EC: Food Standards Agency Northern Ireland

6 June 2024

Members present for all or part of the proceedings:

Mr Philip McGuigan (Chairperson)
Mr David Brooks (Deputy Chairperson)
Dr Steve Aiken
Ms Joanne Bunting
Mr Stephen Dunne
Ms Connie Egan
Mr Declan Kearney
Ms Emma Sheerin
Mr Eóin Tennyson

Witnesses:

Mr Richard Annett	Food Standards Agency Northern Ireland
Mr Andy Cole	Food Standards Agency Northern Ireland
Mrs Firth Piracha	Food Standards Agency Northern Ireland

The Chairperson (Mr McGuigan): In attendance today, we have from the Food Standards Agency Northern Ireland (FSANI) Mr Andy Cole, director; Mrs Firth Piracha, head of EU relations, trade and legislation; and Mr Richard Annett, food standards lead on labelling and compositional standards. I welcome you all to our meeting this morning. I will hand over to you to brief us on EU directive 2024/1438.

Mr Andy Cole (Food Standards Agency Northern Ireland): Thank you, Chair and members, for the opportunity to brief the Committee on the matter.

I will start by apologising for the late submission of our written assessment of impact. I understand that the Committee has also received a UK Government explanatory memorandum (EM), to which Food Standards Agency (FSA) officials contributed. Given that this is our first opportunity to appear before the Committee, it may be useful to set out briefly our construct. The Food Standards Agency is an independent, non-ministerial Department. It works across England, Wales and Northern Ireland, and our main objectives in law, in carrying out our functions, are to protect public health from risks that may arise in connection with the production, supply and consumption of food and otherwise to protect consumers' wider interests in food. Our work is underpinned by science and evidence, and protecting consumer interests is at the heart of everything that we do.

Our five-year strategy, which is called 'Food you can trust', was published in May 2022 and provides a sharper focus on a food system in which food is safe, food is what it says that it is, and food is

healthier and more sustainable. The authenticity of food and of food being what it says that it is is a useful framing of today's session.

I will set out some general points about the new EU legislation, highlight in detail what the specific changes will mean in practice and then explain to the Committee how we have been engaging on the changes. First, the new EU directive amends four of the seven EU directives known as the breakfast directives. It updates rules on the composition, labelling and marketing of honey, jams and marmalades, fruit juices and dehydrated milks. The EU's aim in the directive is to increase transparency and empower consumers to make more informed and healthier food choices.

It is important to note that the nature of the changes varies. Some provisions in the directive introduce new requirements, while, under others, it is for Northern Ireland to decide whether to introduce requirements. Some of the new requirements will necessitate changes by businesses, while others will provide the food industry with greater flexibility and opportunity for innovation.

The EU published the final legislation just two weeks ago tomorrow, on 24 May. The new measures will not apply until 14 June 2026, which gives food business operators up to two years in which to prepare. It will also give us more time to work with producers to support them and to engage with consumers and enforcement authorities.

I will turn to the specific detail of the legislation. For honey, the main mandatory change relates to increased transparency in origin labelling of honey blends, which reflects consumer interest in the geographical origin of honey. Our understanding is that local production and supply in Northern Ireland is mostly led by SMEs that primarily sell single-source honey as opposed to a blend of different honeys. The origin labelling changes that the legislation introduces therefore do not impact on single-source honey.

The legislation makes a mandatory change to increase the amount of fruit required for jam making. We understand that jam production in Northern Ireland is, again, largely artisan in nature, producing jams and conserves that inherently already have a higher fruit content.

Northern Ireland Ministers have the option to authorise the term "marmalade" to be used interchangeably with "jam" when referring to jams made from fruits other than citrus fruits. A mandatory change requires marmalade to be labelled as "citrus marmalade" or with the name of the specific fruit from which it is made: "orange marmalade", for example. That change is intended to add clarity and to avoid consumer confusion, particularly in EU countries where consumers use the term "marmalade" to refer to jams from fruits other than citrus fruits. Again, our expectation is that, where a change is required, it could be made as part of routine labelling changes during the two-year transition period, as that broadly aligns with what we understand to be the routine life cycle for labelling changes in food businesses.

Businesses will be allowed to state on their labels that fruit juices contain only naturally occurring sugars. Again, the aim is to provide clarity for consumers and to help distinguish fruit juice from fruit nectars. If at least 30% of the naturally occurring sugars are removed, juices can be labelled as "reduced sugar fruit juice". Use of the term "coconut water" as a synonym for coconut juice will be allowed at a minimum Brix level — a measure of sugar content — set for coconut juice.

The final changes to the rules concern preserved milks. The changes relax the criteria for products sold under the term "evaporated milk" in order for them to align with international standards. The legislation also creates a new opportunity for businesses by allowing treatments to reduce the lactose content of dehydrated milk products in order to adapt to the needs of consumers with food intolerances.

All those changes and policy developments fall under the food compositional standards and labelling (FCSL) provisional common framework, which sets out arrangements for cooperation on food compositional standards and labelling policy and legislation among officials in DEFRA, Food Standards Scotland (FSS) and the Food Standards Agency. The FSA holds the power for the devolved policy area here in Northern Ireland and in Wales, so FSA officials have engaged in four-nation policy discussions under the framework.

Finally and briefly, Chair, let me share with the Committee how we have been engaging on the legislation in Northern Ireland. In August 2023, the FSA informed Northern Ireland stakeholders about the potential updates to the breakfast directives when they were at the proposal stage. We sought initial feedback from stakeholders to help inform our early analysis. In April 2024, we issued an update

on the breakfast directive proposals in our Northern Ireland stakeholder bulletin, which has a broad and deep reach. We will perhaps pick up on that in answers to questions.

The proposals have evolved over time, with the final legislation having been published on 24 May. On the back of that, we are currently engaging again with stakeholders on the final legislation and, in order to inform our FSA advice, are seeking views on what it will mean in practice. In that tranche of engagement, we have made efforts to reach businesses with a specific interest in the breakfast directive product types in order to build on what we already know. We expect to receive a response to that engagement by 24 June.

You will appreciate that, as we are in a pre-election period, there are constraints on the type of discussion in which we can engage, particularly in the wider policy development space in GB. We are here today to help, to take your questions, and to try to inform your consideration. We appreciate your giving of your time and the invite to come to the Committee. We are now happy to take questions.

The Chairperson (Mr McGuigan): Thank you very much for that. It was useful.

Your last couple of points were about engagement with stakeholders. It would be useful for the Committee to know the number or the depth of stakeholders here in the North on which the legislation will have an impact.

Mr Cole: As I mentioned in my opening statement, it is different across product types. We understand the market in those sectors to be SME-related and single-source honey producers, so it is a different footprint in Northern Ireland. We initially reached out broadly to stakeholders about the updates in August 2023. We issued a more bespoke and tailored update in April 2024. Now that the final legislation is published, we will reach out to trade bodies and associations, because it is an SME economy. District councils, as enforcement authorities, will be closer to those producers, so we have asked them to use their reach in order to build on the evidence and knowledge that we have.

Richard, do you have any more detail on the engagement?

Mr Richard Annett (Food Standards Agency Northern Ireland): The proposals were developed, and they then evolved over time. We have tried to engage as certainty has emerged about the proposals. As Andy mentioned, we have made significant efforts to make sure that we extended our reach into the commodity-specific industries that have a particular interest in the products.

Mr Cole: The stakeholder bulletin to which we referred has a reach of probably 5,000 to 7,000, so it is quite broad. In the latest phase, we are trying to target individual food businesses. The stakeholder bulletin reaches food businesses, other Departments, agencies, enforcement authorities and trade associations, so it has quite a broad reach across Northern Ireland business.

The Chairperson (Mr McGuigan): One of your roles is policy development, while another is engaging with stakeholders. The Committee looks at the specific question of whether the application of a change to EU regulation will have a significant impact on communities here that is liable to persist. It would be useful if we could have an assessment of that specific question.

Mr Cole: Some of the changes are mandatory, while some of them will be at the discretion of food businesses to innovate themselves. Some changes will come to the Minister of Health for decision. We therefore need to build their knowledge base so that they understand the impact of implementation before bringing those decisions to the Health Minister.

What we know at present is that there is not a substantive change to the legislation and the current arrangements. If it is viewed in its totality, we know that the range of products in the Northern Ireland market is largely going to remain the same, so there is no impact as a result of the removal of products. Indeed, there is opportunity for new product lines to come in. Our initial engagement across the commodity sectors was done to understand the size of that market. There will be no impact on the single-source honey sector, for example. We have engaged with consumers and the industry. The measures will protect both. Some of the things that being proposed concerning honey are to protect the integrity of honey from adulteration or fraud across the world. That will protect the industry.

Ultimately, any of the food that moves within the UK and within Northern Ireland is on the market, and we ensure that that food is safe and that it is what it says that it is. The legislation will therefore bring some clarity and choice to consumers and businesses. Our initial engagement led to that initial

assessment, but we want to test it again. We have therefore gone out upon the publication of the final legislation to sense-check that and see whether there is anything that we have missed, but our initial impact is of that view.

Mr Kearney: Andy has answered the question that I was going to ask. It seems to me that what is being proposed will bring a greater resilience to the bespoke nature of those kinds of artisan products. It will bring greater protections and resilience and provide make more robust how they promote very specific artisan products from this region.

I am curious to know the degree to which the sector and stakeholders indicate that that is their view. I appreciate that the process has not completely concluded, but thus far, to be clear, Andy, the indications from the sector are that, yes, the new directive will be helpful.

Mr Cole: We have not had any indications to the contrary, Declan. That is correct, yes.

Mr Kearney: OK. Thank you.

Mr Cole: We do, however, want to test that in the current phase.

Mr Kearney: Of course. I understand.

Mr Cole: I imagine that, if the directive had been of controversy, we would have heard that loud and clear.

Mr Kearney: Purely from a very specific and niche artisan form of production.

Mr Cole: Correct.

That whole thing about authenticity and food being what it is said to be is very important, and not just to the regulator. It is important for consumers that they understand what they are eating and its composition. Some of the changes that are proposed and that are now being implemented will provide consumers with that clarity and transparency.

Mr Kearney: Beyond that, it strikes me, albeit from a relatively uninformed perspective, that, from a marketing or promotional perspective, it will probably give our producers an even greater impetus and ability to promote their products successfully.

Mr Cole: I agree. It may be useful as well to note that we will transpose the four directives into secondary legislation in time. Is that to be done in December 2025?

Mrs Firth Piracha (Food Standards Agency Northern Ireland): Yes, December 2025.

Mr Cole: That is to be done in December 2025. In implementing the secondary legislation, we will follow the normal process and bring it through the Department of Health. It will then be scrutinised by the Committee for Health and in the House so that Members have a chance to scrutinise again, at that point, our implementation and the transposition of the directives into secondary legislation.

The Chairperson (Mr McGuigan): Steve?

Dr Aiken: My apologies for sneezing.

Mr Cole: I thought that you were asleep.

Dr Aiken: I guarantee you one thing: I will not be asleep on this Committee.

I have a quick question. We are talking about the impact on Northern Ireland producers. What will be the impact on the rest of our nation of our providing those products? Most marmalade, honey and juice products come in from the rest of our nation. What therefore will the impact be over the two-year period? Are producers in GB going to have to change their labelling requirements to match the rules and regulations here, or will there be derogations to allow for them? It will require significant change, particularly to our supply chains.

Mr Cole: The current arrangements — Firth will add some light and shade — under the Windsor framework, as you know, allow for anything that is produced here to move freely into GB under UK internal market scheme (UKIMS) arrangements. Likewise, for anything produced in GB, there is smooth, free movement of that food into Northern Ireland under the Northern Ireland retail movement scheme (NIRMS). There therefore should not be friction there, but there may be some differences. There may be some difference between the marmalade product produced in GB and that produced in Northern Ireland under the directive. There will, however, be smooth movement. The important thing for us is to facilitate that smooth movement, to have public protection for our consumers in Northern Ireland and to ensure that the food is safe, regardless of whether it is generated in GB or by manufacturers here.

Dr Aiken: You do not think that there will be any impediment to our normal supply chains.

Mr Cole: Is that fair to say, Firth?

Mrs Piracha: That is fair. We are not expecting to see any change to the range of products that are supplied into the Northern Ireland market, because the arrangements put into place under the Windsor framework mean that we have that free flow of products produced to GB public health standards into Northern Ireland. There should therefore not be a supply chain impact in Northern Ireland at all as a consequence.

As Andy indicated, because products produced in Northern Ireland benefit from qualified Northern Ireland goods status, their producers have unfettered access to the entirety of the UK internal market. We therefore expect that, if the legislation is implemented, Northern Ireland producers will still be able to access the Northern Ireland, GB and EU markets, thus giving them a broad range of access.

Mr Brooks: I am seeking clarity on what Stephen asked. Can our goods go over to GB uninhibited? There was concern in some of our papers — I am having IT problems, so I cannot access them — that there might be some implications for some of the products that would be available to GB consumers that might not be on our radar, as the papers did not give specifics. They just stated that it might lead to a situation in which we may not have the same range of products in Northern Ireland as may be available in the UK. Is it possible to get some clarity on that? It is about the impact on not just our artisan producers but on the range of choice for our consumers.

Mrs Piracha: Members will appreciate that we are in a pre-election period, so we cannot provide a view on what any future UK Government policy may be. That having been said, because there is unfettered access for Northern Ireland goods into the GB market, we equally expect consumers in GB to have access to a broad range of goods. Products produced to those future breakfast directive requirements will therefore also be available on the GB market, just as —.

Mr Brooks: It would not, however, be the UK Government who would object to those goods coming here but, presumably, the EU, so what I am asking is whether products will be available in the rest of the UK that the EU may object to coming here?

Mr Cole: Each breakfast directive will not specifically impact on the range of products that are available on the market in Northern Ireland. Products can move freely into GB. Nor will it impact on the range of products produced in GB that are able to flow into Northern Ireland. That should not be the case with the directives.

Mr Brooks: That probably answers my next question, which is about understanding the health benefits and so on. That would be the same across the board. Most people are not buying jam to be health-conscious. Some of us had a scone here today. Not to disparage the Assembly's suppliers, but I suspect that there is not the highest degree of fruit content in the jam. *[Laughter.]* Reducing the amount of sugar and increasing the fruit content would, I imagine, necessarily have a cost implication. Do we envisage there being any significant change there, and, if so, will that change be in any way more disproportionate for us than for the rest of the UK?

Mr Cole: There are a couple of things in there about increased fruit content and potentially increased cost. As I said, the sector here appears to be artisan in nature, with products probably having a higher fruit content and being a higher-quality product anyway. Yes, we will test the cost of implementation when we go out to engage with producers.

We are science- and evidence-led. What we see from our data and from surveillance is that consumers want to eat food with a lower sugar content. There is too much sugar in our diets, so increased fruit content and less sugar is a health benefit, one could argue, so that is a positive.

Mr Brooks: I accept that, and I guess that there is a range. You pays your money and takes your choice.

Mr Cole: Indeed. It provides broader consumer choice as well. There will be preserves available with different fruit content and levels of sugar. The important thing, as I keep saying, is for food to be safe and to be what it says it is, but that will now be labelled properly so that consumers can choose what they want to consume.

Mr Annett: There is a good possibility that some of our high-quality producers are already meeting some of those minimum standards. Our current stakeholder engagement is reaching into those commodity-specific sectors, so we are hoping this time that we will get feedback if there are any concerns with or, indeed, unforeseen benefits from the changes.

Mr Brooks: I accept that. What I said at the start, however, is that we no doubt have great-quality producers, with products that people far beyond our shores want to purchase. We often focus on it, but, from the Committee's point of view, it is not just a case of looking out for local industry but a case of looking out for local consumers. Some may want the less healthy option. Lots of us make different choices throughout our life, so alternatives are not banned. That is what I am trying to get at.

The Chairperson (Mr McGuigan): Thank you very much for your presentation and for taking our questions. It has been useful and helpful for the Committee.

Mr Cole: Thank you, Chair. If the Committee wants us to report back after 24 June, when the stakeholder engagement is concluded, we will be happy to do so.

The Chairperson (Mr McGuigan): Thank you.