



Llywodraeth Cymru
Welsh Government

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Free range Egg and Poultrymeat Marketing Standards

Consultation on the derogation period in egg and poultrymeat marketing standards legislation Wales.

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Overview

This consultation seeks opinions about whether to make changes to the law about marketing of free range eggs and free range poultrymeat in relation to Wales. In particular, this consultation seeks views on a proposed change to Commission Regulation (EC) No 589/2008 (“Regulation 589/2008”) which lays down detailed rules as regards marketing standards for eggs, and Commission Regulation (EC) No 543/2008 (“Regulation 543/2008”) which lays down detailed rules as regards the marketing standards for poultrymeat. The proposed changes will simplify the regulation of the labelling of free-range eggs and free-range poultrymeat, so that they can be marketed as such for the duration of mandatory housing measures. Amendment of both Regulations 589/2008 and 543/2008 would, together, directly affect egg producers, poultry producers, processors, retailers, importers, exporters, consumers and organisations who have an interest in the egg and poultry industry.

Policy background

Under Regulation 589/2008, when a mandatory housing measure is introduced, eggs produced by housed hens may still be marketed as free range for the first 16 weeks of a compulsory housing, without relabelling or repackaging, or any additional consumer information at the point of sale. After 16 weeks they must be labelled and packaged as barn eggs.

For poultrymeat, Regulation 543/2008 contains a derogation which permits poultrymeat from birds who are subject to mandatory housing measures (imposed in order to protect public and animal health) to continue to be labelled as free-range for 12-weeks, assuming all other elements of free-range standards are met.

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Both Regulation 589/2008 and Regulation 543/2008 were retained within domestic law after 1 January 2021 when the EU Transition Period ended.

These provisions in Regulations 589/2008 and 543/2008 represent a long standing policy to allow the sale of free range eggs and poultrymeat to continue without any labelling changes or repackaging in situations where flocks are compulsorily housed, for example, to reduce the risk of exposure to avian influenza virus. The policy aim is to minimise disruption (and extra cost) to businesses which could be caused by immediate requirements to relabel and repackage, or to reclassify eggs as barn eggs. The derogation periods provide a time buffer during which the industry can prepare for relabelling and repackaging should the mandatory housing measures remain in place for prolonged periods. The stability the policy provides in turn stabilises supply to consumers. The policy is time limited because the general food labelling policy is that food should be labelled accurately so consumers know what they are buying. The policy exists to strike a balance between business needs and providing consumers with accurate information.

The policy has operated across the UK and EU successfully during a number of bird flu outbreaks. The policy for free-range eggs was last modified on 20 September 2017 (Commission Delegated Regulation (EU) 2017/2168 - increasing the duration of the derogation from 12 to 16 weeks) in response to industry concern that bird flu outbreaks were starting earlier in the year and lasting longer. The policy for poultrymeat has not been changed to date because broiler birds are usually slaughtered before 12 weeks old.

The EU has changed its policy in relation to marketing of eggs to remove the time limitation so products may be sold for an open ended period without any change of labelling or repackaging, or any additional consumer information, if housing requirements apply. This policy change also applies in relation to Northern Ireland (NI).

The EU has recently consulted on amending its legislation on the 12-week

derogation period in relation to free range poultrymeat. The EU's proposal is that in the event of mandatory housing measures, free range poultrymeat could continue to be marketed as free range for the duration of mandatory housing measures, regardless of how long the birds have been housed Defra and Scottish Government launched a joint consultation on 9 January in relation to the marketing of eggs which closed 5 March, seeking views on adopting the same policy as the EU.

Although Wales and GB have high levels of self-sufficiency of both eggs and poultry, there is significant trade volume between GB and EU/NI.

Regulations

Free-range eggs

Regulation 598/2008 regulates the following aspects of marketing of eggs in shell either produced in or imported into the country:

- quality
- weight
- grading
- labelling
- marking
- packaging
- use of special marketing terms (relating to farming methods)

Regulation 598/2008 seeks to protect the consumer by setting uniform standards to ensure the quality of the product remains high and to protect the producer against unfair competition. They include requirements for marketing standards checks, which are aimed at safeguarding quality and consumer confidence. Regulation 598/2008 also requires that an indication of the farming

method must appear on the outer surface of egg packs in easily visible, clearly legible type. Regulation 598/2008 also allows, in certain circumstances, a 16-week derogation period to the labelling requirements. This derogation allows eggs laid by hens subject to a government imposed mandatory housing measure to continue to be labelled as free-range for 16 weeks. Once this derogation period has ended the code stamped onto individual eggs needs change from 1UK (free-range) to 2UK (barn) and the egg packaging must be changed from free-range to barn eggs. These can be changed back again once the housing measures end.

This 16-week period was exceeded in both the 2021/22 and 2022/23 Avian Influenza (AI) outbreak seasons.

Food safety is not impacted by Regulation 598/2008 as it does not relate to sanitary and phytosanitary (SPS) requirements. Human health and hygiene rules are laid down in other regulations.

The EU has published revised marketing standards for eggs that came into force November 2023 (Commission Delegated Regulation (EU) [2023/2465](#) supplementing 1308/2013 as regards marketing standards for eggs, and repealing 589/2008). Its policy is that in the event of mandatory housing measures, eggs could continue to be marketed as free range regardless of how long hens have been housed. Changes to the legislation in the EU and Northern Ireland (by virtue of the Windsor Framework) were introduced in 2023.

Retaining parity with the EU and Northern Ireland would enable the Welsh egg sector to trade fairly with its EU, Northern Ireland and GB competitors and ensures Welsh producers could continue to operate on a level playing field commercially. Whilst exports of free-range eggs from GB to NI are minimal, eggs imported from NI make up almost 10% of UK sales. Consideration should therefore be given to maintaining a level playing field with NI and the EU to maintain fair trading conditions for our producers, as well as a consistent commercial offer for consumers.

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Whilst unpredictable, it is highly likely that Wales will be faced with outbreaks of Avian Influenza in years to come, and a longer-term approach to this issue needs to be considered.

Free-range poultrymeat

Regulation 543/2008 regulates the following aspects of the marketing of poultrymeat either produced in, or imported into, the country:

- quality
- weight
- labelling
- marking
- packaging
- use of special marketing terms which are described as ‘optional indications’ (relating to farming methods, eg “free-range”).

Regulation 543/2008 seeks to protect the consumer by setting uniform standards to ensure the quality of the product remains high and to protect the producer against unfair competition. These standards include requirements for marketing standards checks, which are aimed at safeguarding quality and consumer confidence.

Food safety is not impacted by Regulation 543/2008; poultrymeat marketing standards do not relate to sanitary and phytosanitary (SPS) requirements. Human health and hygiene rules are laid down in other regulations.

Regulation 543/2008 requires that an indication of the farming method e.g. ‘Free range’ must appear on the outer surface of the package of poultrymeat in easily visible, clearly legible type. It also allows, in certain circumstances, a 12-week derogation period to the labelling requirements. This derogation allows poultrymeat from birds who are subject to a government imposed mandatory

housing measure to continue to be labelled as free-range for 12-weeks, assuming all other elements of free-range standards are met.

Mandatory Housing Measures - Free range eggs

As of 27 June 2024, there have been 364 cases of Highly Pathogenic Avian Influenza (HPAI) in GB and 1 case of Low Pathogenic Avian Influenza (LPAI H7N3 (15 of these case in Wales) since the start of the outbreak in October 2021. There are over 56,000 commercial poultry premises in GB therefore these outbreaks represent <0.5% of GB's poultry sector. In terms of impact, 8.8million birds have died or been culled and disposed for disease control purposes since October 2021.

As a result of an increased risk to poultry during Avian Influenza outbreaks in recent years, decisions were made by the UK administrations to introduce temporary mandatory housing measures. This was done for all poultry across the UK in the 2021/2022 season and in England, Wales and Northern Ireland in the 2022/2023 season. Mandatory enhanced biosecurity measures which also include compulsory housing are designed to reduce the risk of free-range laying poultry becoming infected with Avian Influenza from wild birds. These measures have required all poultry to be housed for 22 weeks in 2021/22 and 23 weeks in 2022/23 which was driven by the epidemiological assessment of Avian Influenza risk across GB.

When free-range poultry is placed under a housing requirement, Regulation 598/2008 currently allows a 16-week derogation. This enables eggs from free-range laying poultry which has been subject to a mandatory housing measure to be labelled as free-range only for the duration of the derogation period.

As a result, to comply with Regulation 598/2008, after the expiry of the 16 week period, the following steps have to be taken:

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- a. stamping a different code on each egg to show the change of status from free range to barn egg, and
- b. the packaging of eggs in non-free range boxes

Or

- c. the overlabelling of free range boxes with new labels to show the changed status.

There is no requirement to provide additional signage at the point of sale in shops but retailers have often done this voluntarily.

In practice, in 2021/2022 and 2022/2023 there were periods of 6 and 7 weeks respectively when the 16-week derogation had expired and the egg stamps and labelling had to be changed.

Compulsory housing - Free range Poultry

Mandatory housing measures are designed to reduce the risk of poultry becoming infected with Avian Influenza from wild birds.

The existing legislation requires poultrymeat from free-range poultry that have been housed for 12-weeks or longer to be marketed as barn reared. In both 2021/2022 and 2022/2023 the length of the mandatory housing measures exceeded the 12-week derogation period, but as flocks are usually slaughtered at around 8 weeks and the existing legislation is interpreted on a flock-by-flock basis, poultrymeat continued to be marketed as free-range even though birds had not had access to open-air runs.

In any future mandatory housing measures, there is a potential for producers of free-range turkeys, geese and ducks to be impacted as the production period for these birds is longer than 12-weeks. The timing of previous housing measures

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has meant that free-range turkeys, geese and ducks have been slaughtered for consumption before they reached the 12-week derogation limit. The timing of any future housing measure may exceed the 12-week derogation period and the birds will need to be labelled as “barn-reared”.

Whilst uncertain, it is likely that the UK will be faced with outbreaks of Avian Influenza in years to come, and a longer-term approach to this issue needs to be considered.

If the change in relation to the 12-week derogation period is adopted and birds are continually housed during a period of mandatory housing measures, all other free-range production criteria would continue to have to be met for birds to be labelled as free-range.

If birds are continually housed, there may be concerns that labelling poultrymeat as free-range may mislead consumers about the nature of their purchases. Labelling transparency is an important consumer issue. It is our priority to ensure, through this consultation, that we establish a comprehensive understanding of industry and consumers’ views.

According to the **WG Survey of agriculture and horticulture: June 2023**, the poultry population in Wales stood at 10,322,900, with the majority (over 90%) of these were either table chicken/broilers (5.1 million) or chickens kept for laying eggs (4.5 million). Should in future prolonged periods of mandatory housing measures be imposed, the duration of the derogations in relation to egg and poultrymeat marketing could place poultry farmers in Wales in serious financial difficulties in a very short period of time, which could also lead to animal welfare issues.

Proposed changes

This public consultation seeks views on whether to adopt the following policies in relation to Wales:

- introduce a change to Regulation 598/2008 (eggs marketing) to remove the 16-week time limit on the derogation period, so that eggs can continue to be labelled as free-range throughout the duration of a mandatory housing measure, and
- to amend Regulation 543/2008 (poultrymeat marketing) by removing the 12-week time limit on the derogation period that would enable poultrymeat to be labelled as free-range for the duration of any mandatory housing measures.

This consultation is being conducted over a 6-week period rather than the usual 12 weeks. The shorter consultation period reflects the relative urgency of some of the issues under consideration. This is due to timing. Should the Welsh Government decide to change the law, it would aim to make the changes before the expiry of 12 weeks from the imposition of any mandatory housing measures imposed in relation to Wales.

This consultation document contains explanations of the issues under consideration along with questions for the public. The Welsh Government is interested in the public's answers to these questions in particular but welcomes all comments regarding the issues covered in this consultation.

Implications of different regulatory regimes within the UK

The egg and poultry industries operate UK wide supply chains includes international trade with imports and exports. Eggs and poultrymeat are shipped within the UK and in EU trade. Packing and processing plants may handle eggs

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and poultry from more than one territory. Consequently different regulations in the territories of the UK will create a degree of complexity which in turn could create advantage or disadvantage for businesses depending on their location and circumstances.

Public survey

We commissioned a focussed consumer survey in June 2024, through Beaufort Omnibus Wales Survey, to establish whether there is consumer support, concern or indifference about the policy on free-range egg labelling and free-range poultry meat labelling. The Omnibus sample is designed to be representative of the adult population resident in Wales aged 16 and over. The fieldwork for the June 2024 survey took place between 3 and 23 June and a total of 1,000 interviews were completed and analysed.

Summary of the results is as follows:

- Three in four (75%) of those interviewed supported the idea of free-range hens and other poultry being kept inside during bird flu pandemics (56% were aware this happened before taking part in the survey).
- Circumstances surrounding mandatory housing requirements were explained to participants, e.g. that in these circumstances, eggs and poultry meat can still be sold as free range for a certain period of time (16 weeks for eggs and 12 weeks for poultry) without any relabelling or repacking. The majority of participants (60%) felt that this was acceptable.
- Opinion was divided, however, on whether Wales should introduce the same policy as England and Scotland during bird flu pandemics, where free range eggs and poultry can continue to be marketed as free range even if the birds are housed indoors for longer than the current periods of 16/12 weeks - 49% said they would support the same policy being introduced in Wales but 27%

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would not and 23% were unsure.

- When participants were asked what the best way of informing people of a change to products would be, 53% thought that updated shelf labelling applied by the supermarket/ retailers instore would be preferred.

Consultation questions

Free-range Eggs

Questions 1 to 7 are seeking your views on whether to introduce a change to the free range egg Regulation that would remove the 16-week limit to the derogation period, and to provide that the derogation applies where any temporary mandatory housing measures have been imposed so that eggs can continued to be labelled as free-range throughout the whole duration of a mandatory housing measure, such as during an Avian Influenza outbreak.

Q.1 Do you agree with removing the 16-week time limit on the derogation period in Wales?

Q.2 Do you agree or disagree that it's better to have a consistent approach in Wales with the policy in other countries like England and Scotland?

Q.3 Do you agree or disagree that the impact of the proposed alterations to Regulation 598/2008 (egg marketing) could confuse consumers?

Q.4 If yes, do you have any suggestions for how the risk of confusion could be mitigated?

Q.5 To what extent would it affect you if the amendment of the 16-week time limit on the labelling derogation is not adopted within legislation in all of the GB nations (Wales, England, Scotland)? Please can you describe your operations

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and the extent to which they take place either wholly in Wales or across two or more of the GB nations?

Q.6 What would be the best way of informing people of a change to the labelling of free range eggs?

- Advertising (e.g. TV, radio, newspapers/magazines, posters, email, or online)
- Website notifications that appear when selecting the product to 'Add to Basket' when shopping online
- On a dedicated "what's new" webpage when shopping online where any changes to products can be highlighted
- Website or App banner notifications on the product page when shopping online
- Government update or communication (e.g. an information notice issued to every household advising of a product change)
- Don't know
- Other (please specify)

Q.7 Do you have any other suggestions on informing the public and interested parties?

Q.8 Do you have any comments on the legislative change, if any?

Free-range Poultrymeat

Questions 9 to 15 are seeking your views on whether to introduce a change to the free range poultrymeat Regulation that would remove the 12-week time limit on the derogation period that would enable poultrymeat to be labelled as free-range for the duration of any mandatory housing measures.

Q.9 Do you agree or disagree with removing the 12-week time limit on the

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derogation period?

Q.10 To what extent do you agree or disagree that the impact of this proposed amendment to Regulation 543/2008 (poultrymeat marketing) Poultrymeat could confuse or mislead consumers?

Q.11 If you think this amendment to Poultrymeat Regulation 543/2008 (poultrymeat marketing) could confuse or mislead consumers, do you have any suggestions for how any perceived risks could be mitigated?

Q.12 To what extent would it effect you if the amendment of the 12-week time limit on the labelling derogation is not adopted within legislation in all of the GB nations (Wales, England, Scotland)? Please can you describe your operations and the extent to which they take place either wholly in Wales or across two or more of the GB nations?

Q.13 What would be the best way of informing people of a change to poultrymeat labelling?

- Advertising (e.g. TV, radio, newspapers/magazines, posters, email, or online)
- Website notifications that appear when selecting the product to 'Add to Basket' when shopping online
- On a dedicated "what's new" webpage when shopping online where any changes to products can be highlighted
- Website or App banner notifications on the product page when shopping online
- Government update or communication (e.g. an information notice issued to every household advising of a product change)
- Don't know
- Other (please specify)

Q.14 Do you have any other suggestions on informing the public and interested

parties?

Q.15 Do you have any comments on the legislative change, if any?

Q.16 Would you like your response to be confidential?

Q.17 What is your name?

Q.18 What is your email address?

Q.19 Please tell us who you are responding as, selecting from the following:

- egg producer
- poultry producer
- food processor/manufacturer
- retailer
- poultry importer/exporter
- sector trade body or membership organisation
- consumer interest organisation
- individual/ member of the public
- other (please specify)

Q.20 If responding on behalf of an organisation please provide the name of the organisation you are responding for. If you are responding for more than one organisation, please say how many organisations you represent and their category (as set out in the previous question).

Q.21 Please select the geographical coverage of your organisation or the area that your response relates to from the following:

- England
- Northern Ireland
- Scotland
- Wales

- Republic of Ireland
- UK
- Other (please state where)

How to respond

Responses can be submitted by email, post or via an online form on the Welsh Government website at www.gov.wales/consultations

E-mail/postal responses should be sent to the address below to arrive by 9 September at the latest. Please ensure you state “Free range Egg and Poultrymeat Marketing Standards” into the subject box.

Contact details

For further information:

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The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information

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legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:

Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail: dataprotectionofficer@gov.wales

The contact details for the Information Commissioner's Office are:

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