

# Written evidence submitted by Food and Drink Federation, relating to the operation of The Windsor Framework

[OWF0009]

## Introduction

This submission is made by the Food and Drink Federation, which is the voice of the UK food and drink manufacturing industry, the largest manufacturing sector in the country, with a footprint in every parliamentary constituency. Our industry has a turnover of more than £113 billion, accounting for 20% of total UK manufacturing, and Gross Value Added (GVA) of more than £33 billion. Food and drink manufacturers directly employ over 450,000 people across every region and nation of the UK. 97% of our industry is small and medium-sized businesses.

### 1. Implementation of 'Not for EU' labelling requirements

Overall, there have been significant issues with the implementation of the 'Not for EU' labelling requirements. This includes short timeframes, a lack of clarity around the products in scope and uncertainty around the application of the policy for the same products when sold in Great Britain. These issues are set out in turn below:

- **Timeframes**

The Windsor Framework was formally announced on 27 February 2023. Labelling requirements, impacting all product at either individual pack, box or shelf level labelling came into effect on 1 October 2023, leaving businesses with a very short time to prepare. Businesses generally require at least a year to factor in artwork pack changes.

- **Box level labelling**

The Northern Ireland Retail Movement Scheme presents two major benefits vis-à-vis 'Red Lane' or ordinary GB-EU movements:

1. A significant simplification of the certification process (E.g. no veterinary signed Export Health Certificates that come at significant expense)
2. Reduction in identity and physical checks at the border.

The goods subject to these processes are those requiring on pack labelling in the three phases. (meat, dairy, fish, fresh fruit and vegetables etc.)

Products exempt from on pack consumer unit labelling in any phases must be labelled at the box-level (transit cases etc) as well as on shelves in Northern Ireland. In theory, the box level labelling is necessary for DAERA to conduct compliance checks, whilst the shelf requirement informs consumers in Northern Ireland that the products that they are purchasing have been moved via the UK Internal Market Scheme. Products moved via the scheme can be produced to UK public health and consumer protection standards and therefore may not be eligible for sale in the EU.

In practice, almost all products moved via the retail movement scheme meet UK and EU standards and given that products require box/shelf labelling do not require costly certificates

or checks (they are exempt entirely from presentation at Border Control Posts), there is very little benefit for these products to move via the Scheme with additional burden of labelling boxes.

In recognition of this, the government agreed with the Commission to relax the strict definition of 'box level labelling' to include cages, pallets, and similar structures. Crucially, this avoided manufacturers having to label boxes and instead was a good, low-cost solution for retailers to apply e.g. in distribution centres or warehouses for groups of products moving to NI.

At the time of writing, there is no indication that this easement will end and the FDF would encourage for this solution to be made permanent recognising that these products are exempt from SPS controls (very low risk) and the fact that range of further assurances exist in the scheme to evidence that goods are sold or consumed in the UK only including:

- The General Certificate
- Listed Establishment (place of dispatch in GB and place of receipt in NI)
- Channelling (photo of the seal on lorries must be taken and uploaded onto CHOP system in Northern Ireland at the place of destination.)

- **Lack of clarity of products in different phases**

#### **Phase 1 (October 2023):**

**Applied to meat and a subset of fresh dairy products: 'pasteurised milk, buttermilk or cream products, cottage cheese, quark cheese or raw (unprocessed) cheese, of any animal origin, crème fraîche and sour cream.' The UK government command paper referred to meat and 'fresh' dairy only at this stage.**

To provide further clarity to industry, the government published a list of commodity codes. These codes captured a range of member products that did not fit the above descriptions e.g. long shelf-life dairy products. It also missed off products which were more recently added to the list. The published list included errors in the formatting of the commodity codes which took over 4 months to resolve. This resulted in a significant amount of uncertainty in what should have been the simplest and clearest phase of implementation.

#### **Phase 2 (October 2024): Remaining dairy products, listed in bullet form in the guidance.**

The list of products affected by this phase is pulled from an EU regulation, with the addition of 'ice cream'. The FDF shared detailed case studies of different ice cream ranges, many of which meet the definition of a composite (phase 3) product. This evidence was originally rejected by government. Following further work with members it was clarified that ice cream ranges made from a composite mix of dairy products (milk cream of any origin etc.) and oils were in fact phase 3. This information was not in the public domain for a significant amount of time and was only added to the guidance in September 2024. This caused considerable uncertainty for ice cream manufacturers, who remained unsure as to the final outcome for a considerable length of time.

Further questions remain around processed products from the dairy list. For example, for a flavoured dairy drink (long shelf life), it can depend on whether the plant origin product is added as an ingredient 'not just for flavour or as stabiliser'. These are highly complicated conditions that have not been communicated effectively and are not well understood by industry.

#### **Phase 3 (July 2025): All remaining products subject to Official Controls Regulations and certification ordinarily upon entry to the EU.**

According to government guidance, this includes 'pet food, fruit and vegetables, fish and composite products such as pizza.' There is no positive list of products that come in scope at this stage, instead there is a short non-exhaustive list of exemptions which are based on **evolving EU regulations**. For example, the exemptions list a range of shelf stable products that do not need to be labelled e.g. chocolate, confectionery etc. This list is pulled from an EU regulation which includes breakfast cereals and bars, crisps, chocolate spreads, soy sauce, crackers etc. Since the announcement of the Windsor Framework, this list was updated by the EU, bringing certain products out of scope of labelling requirements. However, The UK guidance was not amended until one year after this change.

Certain conditions also need to be met to benefit from the exemption. For example, the product of animal origin source in these products must be from an approved EU factory. There is no mention of any these conditions in the guidance and as UK/EU supply chains diverge, this will become more of a problem.. Further exemptions in the guidance include a short, non-exhaustive list of cupboard/freezer items e.g. frozen peas, tea bags, wine etc, leaving many categories unanswered.

As mentioned above, the products subject to official controls evolve and can depend not only on the risk of the product but also the country of origin. There is no formal mechanism to track these changes, nor regular communication with industry. This may lead to compliance issues in the future.

- **Transition Periods**

The scheme includes a 30-day sell through period for each phase of labelling:

- 1. Retail goods placed on the market in Northern Ireland before 1 October 2023 shall not be required to comply with the marking requirements laid down in Article 6(1), point (a), until 31 October 2023.*
- 2. Retail goods placed on the market in Northern Ireland before 1 October 2024 shall not be required to comply with the marking requirements laid down in Article 6(1), point (b), until 31 October 2024.*
- 3. Retail goods placed on the market in Northern Ireland before 1 July 2025 shall not be required to comply with the marking requirements laid down in Article 6(1), point (c), until 31 July 2025.*

These provisions are more practical for the first two phases which largely deal with short shelf life, fresh produce. Future phases, capture long life product (12-18 months) which may cause issues with enforcement (distinguishing between different product dependant on when it was placed on the market.) Clarity on the future approach to this issue would be welcome.

- **Unnecessary proposals to extend the requirement to the same products when sold in GB**

As part of the Windsor Framework Command Paper, the government announced an intention to extend 'Not for EU' labelling requirements to products sold in Great Britain.

*'From October 2024 these requirements will be extended to include all other dairy products, such as UHT milk and butter, and would be proposed to apply UK-wide from that point, in consultation with the Scottish and Welsh Governments. From July 2025, composite products, fruit, vegetables and fish will also be labelled on a UK-wide basis.'*<sup>1</sup>

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<sup>1</sup> [https://assets.publishing.service.gov.uk/media/63fccf07e90e0740d3cd6ed6/The\\_Windsor\\_Framework\\_a\\_new\\_way\\_forward.pdf](https://assets.publishing.service.gov.uk/media/63fccf07e90e0740d3cd6ed6/The_Windsor_Framework_a_new_way_forward.pdf)

This commitment was reaffirmed in the subsequent ‘Safeguarding the Union’ command paper, published on 31 January 2024.

*‘Legislation to confirm Windsor Framework labelling requirements will apply across the United Kingdom, in line with our longstanding commitments to remove any disincentive for suppliers, manufacturers or retailers to place goods on the market in Northern Ireland. This will provide a critical, legally binding UK-wide solution.’<sup>2</sup>*

Between 2 February 2024 and 15 March 2024, Defra conducted a consultation on this policy. Rather than provide businesses with an opportunity to feedback on the merits or necessity of the policy, this consultation focused on implementation only. A six-week period was also a short timeframe for industry to assess the policy and quantify the impacts on their operations.

A summary of responses to the consultation has not been published. From regular discussions with other Trade Associations, we understand that there was a considerable degree of opposition to the policy. The legislation to implement the policy was not laid under the former administration.

Acknowledging industry concerns, the new administration conducted further welcome engagement. However, public communication on the next steps for the policy was not made until 1 day before the policy was originally due to come into effect. The following statement was issued:

*‘Following consultation, the UK government will not proceed with the introduction of ‘not for EU’ labelling in Great Britain on a mandatory basis on 1 October 2024.*

*At the same time, we will develop legislation to apply ‘not for EU’ labelling in Great Britain in the future in a targeted way if there is evidence of need. See our [policy update](#) for more information.’*

Due to the uncertainty, different businesses took decisions based on what they perceived to be the likely outcome of the policy, which in the end did not materialise causing significant economic impact for those who decided to make the labelling change unnecessarily.

As per the above statement, the government continues to monitor supply and is developing contingency legislation were labelling proved to be a significant driver for companies to withdraw products from the NI market. To assist this process, we would encourage more data sharing. So far, there has been very limited instances of delisting with companies benefiting from using all available routes to market (GB-NI Retail Scheme, GB-NI ‘Red Lane’ or supplying via ROI) with the choice dependant on the product, customer, and route to market (e.g. via retail hubs or B2B.)

## **2. Customs procedures and movement of goods and agri-foods GB to NI, including the UK Internal Market Scheme and NI Retail Movement Scheme**

On 19 September 2024, it was announced that the Customs Changes agreed in the Windsor Framework would no longer come into effect at the end of October and would instead be implemented from 31 March 2025. We understand that this was due to delays in guidance following the change in government, as well as the need for more time to ensure the new systems and processes were ready.

At the same time, the government [announced](#) an extension to the Trader Support Service (TSS) until the end of 2025 with a procurement exercise beginning in early 2025 for

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<sup>2</sup> [https://assets.publishing.service.gov.uk/media/65ba3b7bee7d490013984a59/Command\\_Paper\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/media/65ba3b7bee7d490013984a59/Command_Paper__1_.pdf)

extending the service beyond this date. This free service assists with the substantive elements of the customs processes for companies, obviating the need to use external agents in most instances.

As a result, engagement in the new processes has not been as extensive as may have otherwise been the case. Many companies have a system that works without imposing too much cost and bureaucracy and therefore adapting to new simplifications may not present a significant benefit.

For example, The [Trader Goods Profile](#) assists with completing the Internal Market Movement Information by pre-populating some of the information instead of providing commodity codes to the TSS or an agent. However, in many cases this is information that companies will already hold. In future, it may present a benefit, for example allowing a greater range of companies less familiar with international trade requirements to benefit or where companies decide that they would like greater end-to-end control over the process.

### **3. Areas where legislative divergence between Great Britain and Northern Ireland is likely to occur and the mechanisms in place to monitor or manage this.**

There are a range of regulatory divergence issues with varying implications, depending on the route to market.

#### **Policy covered by Internal Market Schemes**

A range of divergence is covered by internal market schemes. For example, agri-food goods moving via the Northern Ireland Retail Movement Scheme can be produced to UK public and consumer protection standards, if businesses decide this is appropriate for their operations. This covers or futureproofs divergence in a range of policy, including rules on public health, fisheries, marketing, organics, labelling, genetic modifications, and drinks such as wines, spirits, and mineral waters. The full static list of EU legislation which does not apply for NIRMS is included in [Annex I of the legal text](#).

Other policy is not covered by Internal Market Schemes. The list of EU legislation that applies in Northern Ireland (regardless of the route to market) is set out in Annex II of the Northern Ireland Protocol. Not all developments are clear cut and ambiguity can arise, for example when new acts are introduced. We have set out a case study below where the UK reversed policy, on account of it being irreconcilable for UK internal trade.

#### **Policy outside of Internal Market Schemes**

##### **PPWR**

This draft EU regulation applies directly in Northern Ireland (NI), both for products produced in NI and for those moved to NI from GB (regardless of whether they are moved via the UK Internal Market Schemes or 'Red Lane'.) This is likely to have considerable impact on businesses placing products on the NI market due to the significant differences between the approach to labelling in the PPWR and the proposed UK Extended Producer Responsibility (EPR) system.

Following comments received from the EU during the recent notification process for the draft UK EPR regulations, Defra announced that it is temporarily removing the recyclability labelling provisions from the UK regulations to "review the forthcoming EU packaging legislation and explore the potential for consistency across our approaches". Whilst this is a welcome step it leaves business in a great deal of uncertainty in planning for the introduction of EPR in the UK. This is an indicative example of policy development that later needs to be reversed due to divergence from EU standards that is irreconcilable for UK internal trade - regardless of how products are moved.

## **EUDR**

Confusion also remains over the application of the European Deforestation Regulation. (EUDR). The latest indications suggest that the EUDR and UK equivalent proposals would both apply in Northern Ireland (for GB-NI movements) or direct imports into NI. In the case of the EUDR, businesses will need to implement the requirements in NI from December 2025. (this date was extended by the commission at the end of 2024 following significant concerns around implementation requirements). All products made from associated ingredients (e.g. cocoa etc) that cannot be proven to be deforestation free must be on the market before 31 December 2025. This will pose a challenge for certain companies that do not possess warehouse capacity to store their products while questions over complying with the regulation are properly resolved.

As the Windsor Framework provides an agreed mechanism to prevent products entering the EU through Northern Ireland, we think that future EU Directives and Regulations could have more flexibility for Northern Ireland without setting precedents for other parts of the European Single Market. For example, they could include a clause that legacy stock can continue to be transported to and sold in Northern Ireland for a limited period subject to the constraints of the Windsor Framework.

## **Summary**

Overall, we would welcome a more holistic view to regulatory developments considering the issues raised above, to consider:

- Is divergence covered by internal market movements?
- The introduction of formal mechanism to communicate new acts that apply in Northern Ireland with sufficient lead time for industry to prepare.
- Closer cooperation on pipeline policy where the UK and EU share the same objectives to reduce duplication of reporting.

## **The UK Food and Drink Manufacturing Industry**

The Food and Drink Federation (FDF) is the voice of the UK food and drink manufacturing industry, the largest manufacturing sector in the country. Our industry has a turnover of more than £113 billion, accounting for 20% of total UK manufacturing, and Gross Value Added (GVA) of more than £33 billion. Food and drink manufacturers directly employ over 450,000 people across every region and nation of the UK. Exports of food and drink make an increasingly important contribution to the economy, approaching £25 billion in 2022, and going to over 220 countries worldwide. The UK's 12,460 food and drink manufacturers sit at the heart of a food and drink supply chain which is worth £116 billion to the economy and employs 4.3 million people.

The following Associations actively work with the Food and Drink Federation:

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| ABIM   | Association of Bakery Ingredient Manufacturers   |
| BCA    | British Coffee Association                       |
| BOBMA  | British Oats and Barley Millers Association      |
| BSIA   | British Starch Industry Association              |
| BSNA   | British Specialist Nutrition Association         |
| CIMA   | Cereal Ingredient Manufacturers' Association     |
| EMMA   | European Malt Product Manufacturers' Association |
| FCPPA  | Frozen and Chilled Potato Processors Association |
| FOB    | Federation of Bakers                             |
| GFIA   | Gluten Free Industry Association                 |
| PPA    | Potato Processors Association                    |
| SNACMA | Snack, Nut and Crisp Manufacturers' Association  |
| SSA    | Seasoning and Spice Association                  |
| UKAPY  | UK Association of Producers of Yeast             |
| UKTIA  | United Kingdom Tea & Infusions Association Ltd   |

FDF also delivers specialist sector groups for members:

Ice Cream Group  
Organic Group  
Seafood Industry Alliance  
CBD Group

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