

Open consultation

Nutrition and health claims on food: proposed legislative reforms

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Introduction

Leaving the European Union (EU) was a historic moment for the United Kingdom (UK), giving us, for the first time in many decades, the final say over the way we legislate. It is why the government passed the [Retained EU Law \(Revocation and Reform\) Act 2023](https://www.legislation.gov.uk/ukpga/2023/28/contents/enacted) (the act), so that the special status of retained EU law (REUL) comes to an end. It ensures that, for the first time in a generation, the UK's statute book will not recognise the supremacy of EU law or EU legal principles. It is important that we make laws work for UK purposes. The act grants powers to amend, remove and replace REUL with bespoke UK provisions to put UK business, consumers and the British public first.

The government is determined to realise the benefits of EU exit by ensuring that smarter regulation supports the UK's ambitions of creating the best regulated economy in the world, and stimulating economic growth, innovation and job creation. For nutrition-related labelling, composition and standards (NLCS) this means:

- protecting consumer safety and public health
- ensuring accurate nutritional information so that consumers can make informed choices about their diet
- maintaining the competitiveness of NLCS businesses
- avoiding any unplanned intra-UK and wider international divergence to minimise barriers to trade

The government is proposing to assimilate the majority of the NLCS REUL, while reforming nutrition and health claims enforcement in England and removing redundant tertiary legislation from the statute book. We believe that we will achieve the right balance of maintaining quality standards for consumers and robust and proportionate regulation. This consultation sets out the proposed changes in relation to NLCS REUL. We would welcome your views.

Why we are consulting

The legislation which sets the general principles and requirements of overall food law places a statutory requirement to consult on changes to food law stating:

“ There shall be open and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of food law, except where the urgency of the matter does not allow it.”

The power to make NLCS legislation is devolved to the Scottish Government, Welsh Government, and Northern Ireland Executive. This is set out in the respective devolution settlements (Scotland Act 1998, Wales Act 2006, and Northern Ireland Act 1998). This means the appropriate authorities in Scotland, Wales and Northern Ireland can make regulations on NLCS within their respective jurisdictions.

This consultation is being conducted by the UK government. It has been developed through engagement with officials in the devolved administrations in Scotland, Wales and Northern Ireland. It is also in line with the [NLCS provisional common framework](https://www.gov.uk/government/publications/nutrition-labelling-composition-and-standards-provisional-common-framework-command-paper) (https://www.gov.uk/government/publications/nutrition-labelling-composition-and-standards-provisional-common-framework-command-paper), which has been developed by administrations in England, Scotland, Wales and Northern Ireland to maintain a consistent and co-ordinated policy approach across the UK. Although the consultation is being conducted by the UK government, the proposals for revocation would, if taken forward, be implemented via a Great Britain-wide statutory instrument (SI) which would be subject to the consent of ministers in Scotland and Wales.

The reform proposals contained within this consultation are largely technical in nature and the effect on each piece of REUL within scope is summarised in Annex 1 (below).

We welcome feedback on proposals which in summary would:

- reform the enforcement procedure for the regulation of nutrition and health claims in England by introducing an improvement notices regime
- revoke 60 Commission Regulations (tertiary legislation) which approved or rejected health claims

What NLCS legislation covers

The government wants to ensure that consumers can have confidence in the nutritional content of the food they buy. This includes a safety net of legislation that covers nutrition labelling, composition and standards which includes relevant retained EU legislation, including controls on the use of nutrition and health claims which are used on foods.

This regulation is in place to ensure that claims made about a food or drink are accurate and consumers can make informed choices and are not misled regarding the nutrient content and health benefits of the food or drink they buy. Without this regulation food labels might contain unreliable statements regarding perceived health benefits of the food which have not been scientifically assessed against supporting scientific evidence.

Nutrition and health claims should only be used if they have been authorised following scientific assessment of supporting scientific evidence and where the food meets the conditions of use which are set - for example, nutrients being present at the required level in the food to support the claim that the food has a beneficial impact on health. The use of authorised claims may also encourage consumers to make healthier choices which directly influence their total intake of foods, individual nutrients or other substances.

The [Nutrition and Health Claims \(England\) Regulations 2007](https://www.legislation.gov.uk/ukxi/2007/2080/contents/made) (<https://www.legislation.gov.uk/ukxi/2007/2080/contents/made>) form part of the legislation which is within scope of the [NLCS common framework](https://www.gov.uk/government/publications/nutrition-labelling-composition-and-standards-provisional-common-framework-command-paper) (<https://www.gov.uk/government/publications/nutrition-labelling-composition-and-standards-provisional-common-framework-command-paper>).

The NLCS common framework was established between administrations in England, Scotland, Wales and Northern Ireland to manage the process of policy coherence and potential regulatory divergence within the UK after EU exit. The NLCS framework replaces the legislative framework for NLCS which was previously managed by the EU setting out the governance and decision-making processes and arrangements required for effective joint working and implementation of nutrition legislation across the UK.

NLCS REUL consists of 3 retained EU regulations and their associated commission implementing regulations and [7 Articles within the retained food information to consumers regulations](https://www.legislation.gov.uk/eur/2011/1169/chapter/IV/section/3) (<https://www.legislation.gov.uk/eur/2011/1169/chapter/IV/section/3>). In addition, there are:

- several domestic SIs, and one SI that implements EU directives in England, Scotland and Wales, which form part of the NLCS legislation
- around 65 Commission Regulations (referred to later as tertiary legislation) related to health claim authorisations and domestic SIs in each nation that enforce the requirements imposed by the retained EU and commission implementing regulations

These are all listed in Annex 1 below.

Annex 1 also notes where there is any proposal to reform or revoke the legislation. All other NLCS legislation will be automatically assimilated into UK law.

General foods

Nutrition legislation provides for certain basic standards that apply to most foods. These include:

- the use of nutrition and health claims on foods and a framework for the application, assessment and decision-making regarding the approval of nutrition and health claims

- a framework for the application, assessment and decision-making regarding which vitamins and minerals and certain other substances can be added to foods
- the nutrition declaration, which gives factual information to consumers on energy values and the amount (in grams) of fat, saturates, carbohydrate, sugars, protein, and salt present in food

Specific foods

In addition, there are certain foods that have specific composition and labelling requirements. These include:

- infant formula and follow-on formula (IFFOF)
- baby foods
- foods for special medical purposes (FSMP) (for the dietary management of disease, disorder or medical conditions)
- total diet replacement (TDR) for weight control products
- the composition and labelling of food supplements including the vitamins and minerals which can be added to them and the restrictions and prohibitions on the sale of these products

Reforming nutrition and health claims legislation

Retained [Regulation \(EC\) No 1924/2006](https://www.legislation.gov.uk/eur/2006/1924/contents)

(<https://www.legislation.gov.uk/eur/2006/1924/contents>) (as amended by the Nutrition (Amendment etc) (EU Exit) Regulations 2019) on nutrition and health claims made on foods sets out the legal framework for making claims about the nutrition and health benefits of a food on food labelling, presentation and product specific advertising in a commercial context. Businesses may want to highlight the properties of their products and consumers can benefit from nutritional information, but it is important that nutrition and health claims used are accurate, and consumers are not misled.

A 'nutrition claim' means any claim which states, suggests or implies that a food has particular beneficial nutritional properties due to the presence, absence, increased or reduced levels of energy or of a particular nutrient or other substance, and includes claims such as 'source of calcium', 'low fat', 'high fibre' and 'reduced salt'.

A 'health claim' means any claim that states, suggests or implies that a relationship exists between a food category, a food or one of its constituents and health - for example, "calcium helps maintain normal bones" and "vitamin C contributes to the normal function of the immune system".

Retained Regulation (EC) No 1924/2006 also provides for the use of certain 'generic descriptors' to be exempt from its requirements. These are statements or descriptions which have traditionally been used to indicate a particular class of foods or beverages, but which could imply an effect on human health. For example, 'tonic' water is a non-alcoholic carbonated beverage flavoured with the bittering agent quinine, and not a 'tonic' for your health. If these terms were not authorised as 'generic descriptors' they would have to comply with the general requirements of the regulation.

Nutrition and health claims are required to be based on scientific evidence and may only be used if they have first been approved by a UK appropriate authority following relevant risk assessment and risk management. This is necessary to safeguard the public health needs of consumers and ensuring that they are not misled by marketing statements that make foods appear healthier or more nutritionally beneficial than they are.

At the end of the EU exit transition period all authorised nutrition and health claims listed either in the annex of Regulation 432/2012 (which provides the list for health claims (other than those referring to the reduction of disease risk and to children's development and health)) or the annex of Regulation 1924/2006 (which provides the list of nutrition claims (summarised in the EU Community Register)) were adopted in

England, Scotland and Wales and retained and, to assist stakeholders, were included in the [Great Britain nutrition and health claims \(NHC\) register](https://www.gov.uk/government/publications/great-britain-nutrition-and-health-claims-nhc-register) (<https://www.gov.uk/government/publications/great-britain-nutrition-and-health-claims-nhc-register>).

The European Commission (EC) made Commission Regulations to approve or reject individual health claims and amended the annex to Regulation 432/2012 as appropriate. This tertiary legislation was retained on EU exit.

'On hold' claims are those which may be used while they are still under consideration, subject to the transition measures in Article (28)(5) of the nutrition and health claims Regulation (EC) 1924/2006. See the [full list of 'on hold claims' referenced by the 2014 Bulletin](https://www.gov.uk/government/publications/on-hold-health-claims-on-foods) (<https://www.gov.uk/government/publications/on-hold-health-claims-on-foods>).

It remains the intention of the UK government and devolved administrations in Scotland and Wales to minimise disruption to business. Therefore as 'on hold' claims are still under consideration in England, Scotland and Wales, they may continue to be used in accordance with the 2014 Bulletin until a decision is made.

Proposal 1: reforming the enforcement of the Nutrition and Health Claims Regulations 1924/2006 in England by introducing an improvement notice regime

It is a criminal offence to use an unauthorised nutrition or health claim - that is, one that is not included in the legislation.

In the UK, compliance with food standards is enforced by local authorities, which will usually be the Trading Standards or environmental health department of the local authority or port health authority.

Enforcement authorities carry out inspections of products to check that they meet all relevant labelling and marketing standards set out in legislation. Members of the public can contact an enforcement authority to report if they believe that the way a product is labelled or marketed does not meet regulatory standards. In most cases, the enforcement authority that is local to the product manufacturer's head office or importer will follow up individual cases.

Currently in England, the regulations^[footnote 1] enable the requirements of retained Regulation 1924/2006 to be enforced only by means of a criminal prosecution (fine or imprisonment).

However, the current enforcement procedure does not align with other food labelling enforcement which is less bureaucratic, more proportionate, and largely welcomed by businesses and enforcement agencies alike.

For example, the [Food for Specific Groups \(Information and Compositional Requirements\) \(England\) Regulations 2016](https://www.legislation.gov.uk/ukxi/2016/688/contents) (<https://www.legislation.gov.uk/ukxi/2016/688/contents>) and the [Food Safety Act 1990](https://www.legislation.gov.uk/ukpga/1990/16/contents) (<https://www.legislation.gov.uk/ukpga/1990/16/contents>) regulations make provision for enforcement officers to serve improvement notices as an earlier step to build compliance in respect of food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control. In those instances, where there is failure to comply with an improvement notice, enforcement authorities may move to prosecution for that failure.

We propose using powers contained within sections 16(1)(e) and (f), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990 to amend the Nutrition and Health Claims (England) Regulations 2007 to introduce an improvement notice regime where there is a breach of the various requirements with which nutrition and health claims must comply under these regulations and Regulation 1924/2006. The introduction of improvement notices in England would provide an additional early step for enforcement authorities in England to specify measures to be taken by a business to secure compliance with those requirements. The ability for a prosecution to be brought where that was considered to be the correct course of action would remain. By means of the introduction of improvement notices, enforcement authorities would be able to act more quickly to deal with non-compliance and businesses would be

able to respond faster to ensure compliance, while potentially avoiding costly and burdensome court proceedings for both parties.

Existing guidance will be updated for industry to understand how the reformed enforcement process will work with expected timescales for implementation. It is proposed that no new burdens for businesses would be created. We propose that the changes would come into force 3 months from when the SI is made to enable industry and trading standards to prepare.

The Welsh Government will be launching a separate consultation to seek views to introduce nutrition and health claims improvement notices in Wales in parallel with England.

Food Standards Scotland (FSS) issued an 8-week public consultation from 21 October to 16 December 2022 on [proposals to introduce a new compliance notice for breaches of food standards in Scotland](https://consult.foodstandards.gov.scot/regulatory-policy/introduction-of-compliance-notices/) (<https://consult.foodstandards.gov.scot/regulatory-policy/introduction-of-compliance-notices/>). The consultation sought the views of food businesses. Scotland will be laying compliance notice legislation in the Scottish Parliament in due course.

In the ongoing absence of an Executive, similar amendments relating to the introduction of improvement notices for nutrition and health claims are not being pursued in respect of Northern Ireland at this time. Northern Ireland continues to have full participation in risk assessment and risk management processes concerning NLCS policy, including proposed amendments to legislation. This reflects Northern Ireland's role within the UK and ensures that decisions taken fully consider the potential impacts on the UK internal market.

Proposal 2: revoking 60 Commission Regulations (tertiary legislation) regarding decisions to either reject claims or to modify the list of approved health claims recorded in Regulation 432/2012

Historically, each decision to authorise or reject a nutrition or health claim resulted in the EU Commission making a regulation. When we exited the EU the Commission Regulations were retained as part of the UK's REUL. These decisions have created 72 Commission Regulations, 60 of which either rejected claims or where they approved claims the claim was added to the annex in Commission Regulation EU (No) 432/2012. Regulation 432/2012 was retained as we exited the EU. Therefore, the 60 do not serve any current legal purpose, and they complicate the statute book. The government is therefore proposing to revoke the 60 pieces of tertiary legislation as noted in Annex 1 below.

Revoking this legislation has no legal impact as the legislation either rejected claims or the authorised claims are retained in the annex to Commission Regulation EU (No) 432/2012.

Impact of the Retained EU Law Act on NLCS legislation

The UK government introduced the act so that we could end the special status of REUL. It ensures that, for the first time in a generation, the UK's statute book will not recognise the supremacy of EU law or EU legal principles. The act contains a [Schedule of REUL](https://www.gov.uk/government/publications/schedule-of-retained-eu-law) (<https://www.gov.uk/government/publications/schedule-of-retained-eu-law>) across government which will be automatically revoked. This schedule is intended to provide certainty for business by making it clear which regulations will be removed from the statute book, instead of highlighting only the REUL that would be saved. Any REUL not listed in the schedule will be automatically assimilated into UK law. We will retain the vitally important powers in the act that allow us to continue to amend REUL up to 2026, so more complex regulation can still be revoked or reformed after proper assessment and consultation.

The UK government has reviewed all REUL, including all NLCS legislation. We are not proposing to make any changes to NLCS other than those contained in the annex to this document with reference to nutrition and health claims. However, it will be

possible to review and reform assimilated REUL including all NLCS legislation as needed in the future.

In assimilating the majority of the NLCS REUL, while reforming nutrition and health claims enforcement, we believe that we will achieve the right balance between safeguarding the public health needs of consumers and the burden on industry through robust and proportionate regulation.

We intend, subject to the outcome of this consultation, to revoke 60 pieces of REUL which are specifically related to the approval or rejection of health claims as their effects will be retained elsewhere.

The Windsor Framework

When we left the EU, the Protocol on Ireland/Northern Ireland (NIP) provided that EU legislation relating to nutrition, as detailed in Annex 2 of the NIP, continued to be directly applicable in Northern Ireland.

This meant that EU NLCS legislation, as detailed in Annex 2 of the NIP, continued to be directly applicable in Northern Ireland while the rest of the UK has been able to set its own regulatory regime since 31 December 2020. On 27 February 2023 it was [announced that a new agreement had been reached](https://www.gov.uk/government/speeches/pm-speech-on-the-windsor-framework-february-2023#:~:text=Today's%20agreement%20is%20about%20preserving,the%20people%20of%20Northern%20Ireland.) (<https://www.gov.uk/government/speeches/pm-speech-on-the-windsor-framework-february-2023#:~:text=Today's%20agreement%20is%20about%20preserving,the%20people%20of%20Northern%20Ireland.>) to change the way the NIP operates. This agreement is called the [Windsor Framework](https://www.gov.uk/government/publications/the-windsor-framework) (<https://www.gov.uk/government/publications/the-windsor-framework>). The framework:

- restores the free flow of trade from England, Scotland and Wales to Northern Ireland through a new green lane
- gives the people of Northern Ireland a veto over new laws that apply there
- protects Northern Ireland's place in our Union through fixing practical problems including on pets, parcels and medicines and ensuring that UK decisions on tax and spend benefit people and businesses in Northern Ireland as they do England, Scotland and Wales

On Friday 24 March 2023 the Windsor Framework was formally adopted by the UK and EU in a meeting of the Withdrawal Agreement Joint Committee.

Impact assessment

Industry

These legislative reforms affect manufacturers, importers and retailers of food products that make nutrition or health claims.

Businesses such as manufacturers and importers of food products that make nutrition or health claims will be particularly interested in our approach to amending the regulatory frameworks that govern enforcement of their practices.

These legislative reforms will also affect enforcement authorities that are responsible for enforcing the legislation in this area but may also be of interest to relevant third sector organisations and individuals.

A regulatory triage assessment was conducted to assess the impact for businesses and Trading Standards to deliver the reforms. Our assessment at this stage is that upfront familiarisation costs of under £5 million are the only cost impact of these policy reforms on business and enforcement authorities.

We estimate due to the limited extent of the proposed reforms that businesses and enforcement authorities will only have to spend a short amount of time familiarising

themselves with the new procedures which strengthen current existing legislation, particularly as improvement notices are already in use to enforce wider food labelling regulations.

We estimate that familiarisation is the only cost impact of these policy reforms on business and enforcement authorities - that is, the total wage costs, on a per business or per local authority basis, for the time needed for an employee and a manager or director within the company to read and understand how the changes will affect business and the enforcement regime. These costs are direct costs and are assumed to be one-off and that the full amount is incurred immediately.

Guidance documents would be updated and published on GOV.UK to reflect developments in the regulatory framework. Further detailed engagement will take place.

As these proposals either maintain existing standards or streamline enforcement processes, it is proposed that no new burdens for businesses would be created and that nutrition and health claims improvement notices will come into force in England 3 months after the legislation has been made.

Benefits

NLCS REUL protects some of the most vulnerable people in society, including babies, infants and people who have specific nutritional needs for health reasons. As well as ensuring that accurate nutritional information is provided to consumers, NLCS legislation ensures robust compositional standards to help maintain high standards of quality and safety. This helps consumers to make informed choices about their diet and have trust in the food they consume.

In assimilating the majority of the NLCS REUL, while reforming nutrition and health claims enforcement, we believe that we will achieve the right balance between safeguarding the public health needs of consumers and the burden on industry through robust and proportionate regulation.

Reforming enforcement of nutrition and health claims

The primary benefit of introducing improvement notices in the Nutrition and Health Claims (England) Regulations 2007 is likely to be focused on enforcement authorities and their officers.

Bringing a case to court is costly and time consuming for local authorities and business. Introducing alternative options available to enforcement officers in England through improvement notices as a first step to enforcement of the requirements of the nutrition and health claims legislation Regulation 1924/2006 would facilitate a faster, cheaper and more proportionate method for ensuring compliance and would be consistent with other NLCS legislation enforcement processes.

An improvement notice regime enables a consistent and low-resource enforcement approach to labelling offences. Experience of the use of improvement notices by enforcement officers has shown that in most cases, an improvement notice is sufficient incentive for business to make the appropriate changes to become compliant with regulations. The ability to use improvement notices:

- enables the enforcement officer to take a non-threatening approach with business
- encourages dialogue
- is low resource
- provides clarity

Businesses can appeal an improvement notice but, if a business does not comply, court action ensues. The option of issuing improvement notices helps ensure a level playing field for legitimate businesses who act in the spirit of the regulations. It also provides:

- an added incentive for enforcement authorities to address non-compliance
- the proportionality to address lower-level non-compliance
- for businesses to ensure compliance with regulations

This ultimately keeps enforcement costs lower for enforcement authorities and businesses and improves consumer confidence that non-compliant products will not be placed on shelves.

Revoking tertiary legislation

Revoking certain tertiary legislation would allow us to tidy up the UK NLCS statute book, making it simpler to navigate.

The approximately 60 pieces of tertiary NLCS REUL relate only to the authorisation of health claims on foods. These are claims made by food business operators on the potential health benefits of foods - for example, “vitamin D supports healthy muscles and bones”. The effect of this tertiary legislation was to either reject the claim or to amend the list of approved claims in Regulation 432/2012.

Revoking the tertiary legislation alone would have the benefit of significantly reducing the amount of NLCS REUL on the UK statute book which is a key aim of the act. The real-world effect of that legislation would not be lost as each piece of tertiary legislation is already reflected in Regulation 432/2012, which would be retained.

Authorisations by UK ministers in future will continue to require individual SIs to be made before Regulation 432/2012 or the annex to Regulation 1924/2006 (which are reflected in the Great Britain lists) can be modified. This is common across wider food and nutrition REUL - for example, it applies to regulations on import controls, and for Food Standards Agency regulated product authorisations.

Public sector equality duty impact assessment

We consider that the proposals concerning NLCS legislation will not have any effect on equality in relation to any of the protected characteristics under the public sector equality duty (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, or sexual orientation), or disproportionately impact on any particular group. Neither will the policy have any effect on family relationships and functions.

How to respond or enquire about this consultation

The consultation will run until 11:59pm on 31 October 2023. The easiest way to respond is by completing the [online survey](https://consultations.dhsc.gov.uk/64c91735826f2bb7e109b43e) (<https://consultations.dhsc.gov.uk/64c91735826f2bb7e109b43e>).

Written submissions can also be submitted in Word or PDF format and emailed to nlcs-reul-consultation@dhsc.gov.uk.

The address to post written responses is:

NLCS REUL Consultation
Department of Health and Social Care
Quarry House
Quarry Hill
Leeds
LS2 7UE

Written responses will be destroyed after they have been scanned to create a digital copy.

If you have any problems using this survey, send your queries to nlcs-reul-consultation@dhsc.gov.uk.

Please do not send any personal information to this email address.

Respondents may choose to respond to some or all the questions in this document. The Office for Health Improvement and Disparities welcomes partial responses, focused on the aspects that are most relevant to the respondent.

When responding to questions in the consultation, please do not include any information that could identify you or somebody else. For example, do not include anyone's name, age, job title or email address where it is not asked for.

To help ensure our policymaking is representative and to understand how views and experiences may affect certain population groups, we would like to ask some additional questions about your personal characteristics. Results will be grouped with responses from individuals who share the same characteristics. Individuals will not be personally identifiable in our analysis or any results we publish.

Do not identify anyone else in your answers to any questions during this consultation.

Survey questions

Introduction section

The government is determined to realise the benefits of EU exit by ensuring that smarter regulation supports the UK's ambitions of creating the best regulated economy in the world, and stimulating economic growth, innovation and job creation.

The government wants to ensure that consumers can have confidence in the food they buy, and any health benefits promoted on the label. The nutrition and health claims regulations ensure that claims made about a food or drink are accurate and not misleading so that consumers can make informed choices to meet their lifestyle and nutritional needs. These regulations ensure that nutrition and health claims have been scientifically assessed and supported by evidence.

The proposals discussed in this consultation would:

- reform the nutrition and health claims enforcement in England by introducing an improvement notices regime
- remove redundant tertiary legislation from the statute book

Proposal 1

It is a criminal offence to use an unauthorised nutrition or health claim - for example, one that is not included in the legislation. However, the current enforcement procedure does not align with other food labelling enforcement which is less bureaucratic, more proportionate, and largely welcomed by businesses and enforcement agencies alike.

An improvement notice regime enables a consistent and low-resource enforcement approach to labelling offences.

Do you agree or disagree to the introduction of an improvement notice regime for nutrition and health claims as an additional step for enforcement authorities in England?

- Agree
- Disagree
- Don't know

Please explain your answer.

Do you agree or disagree with allowing a 3 month notice period to bring in improvement notices?

- Agree
- Disagree
- Don't know

Please explain your answer.

Proposal 2

Revoking redundant tertiary legislation would allow us to tidy up the UK NLCS statute book, making it simpler to navigate.

Do you agree or disagree with removing redundant tertiary legislation relating to the authorisation of health claims?

- Agree
- Disagree
- Don't know

Please explain your answer.

Impacts and benefits

As these proposals either maintain existing standards or streamline enforcement processes, it is proposed that no new burdens for businesses would be created.

Through these reforms we believe that we will achieve the right balance between safeguarding the public health needs of consumers and the burden on industry through robust and proportionate regulation.

Do you agree or disagree with the impacts that have been identified as resulting from proposals set out within this consultation?

- Agree
- Disagree
- Don't know

Please explain your answer.

Are you aware of any impacts that have not been identified in this consultation?

- Agree
- Disagree
- Don't know

Please explain your answer.

Do you agree or disagree with the benefits these proposals would have which are referred to in the consultation?

- Agree
- Disagree
- Don't know

Please explain your answer.

Annex 1: list of nutrition REUL

Table 1: nutrition-related REUL, countries each applies to, and proposed action

NLCS REUL	Description	Applies to
Regulation (EC) No 1924/2006 (https://www.legislation.gov.uk/eur/2006/1924/contents)	Sets provisions on nutrition and health claims made on foods	Great Britain
SI 2007/2080 (https://www.legislation.gov.uk/uksi/2007/2080/contents/made)	Enforces Regulation 1924/2006	England
SSI 2007/383 (https://www.legislation.gov.uk/ssi/2007/383/contents/made)	Enforces Regulation 1924/2006	Scotland
WSI 2007/2611 (https://www.legislation.gov.uk/wsi/2007/2611/contents/made)	Enforces Regulation 1924/2006	Wales
NISI 2007/349 (https://www.legislation.gov.uk/nisr/2007/349/contents/made)	Enforces Regulation 1924/2006	Northern Ireland
CR 353/2008 (https://www.legislation.gov.uk/eur/2008/353/contents)	Implementing rules for health claim authorisation applications - as provided for in Article 15 of 1924/2006	Great Britain
Commission Regulation (EU) No 432/2012 (https://www.legislation.gov.uk/eur/2012/432/contents)	The lists of permitted health claims made on foods authorised under Article 13	Great Britain
Commission Regulation (EU) No 2019/343 (https://www.legislation.gov.uk/eur/2019/343/contents)	Lists permitted generic descriptors	Great Britain
Regulation (EC) No 1925/2006 (https://www.legislation.gov.uk/eur/2006/1925/contents)	Re: addition of vitamins and minerals and of certain other substances to food	Great Britain
SI 2007/1631 (https://www.legislation.gov.uk/uksi/2007/1631/made)	Enforcement of Regulation 1925/2006	England

NLCS REUL	Description	Applies to
SSI 2007/325 (https://www.legislation.gov.uk/ssi/2007/325/made)	Enforcement of Regulation 1925/2006	Scotland
WSI 2007/1984 (https://www.legislation.gov.uk/wsi/2007/1984/contents/made)	Enforcement of Regulation 1925/2006	Wales
NISI 2007/301 (https://www.legislation.gov.uk/nisr/2007/301/contents/made)	Enforcement of Regulation 1925/2006	Northern Ireland
Commission Implementing Regulation 307/2012 (https://www.legislation.gov.uk/eur/2012/307/contents)	Establishes implementing rules for applications under Article 8 of Regulation 1925/2006	Great Britain
Chapter IV section 3 in the food information to consumers, Regulation (EC) No 1169/2011 (https://www.legislation.gov.uk/eur/2011/1169/chapter/IV/section/3)	Nutrition declaration on food	Great Britain
Regulation (EU) No 609/2013 (https://www.legislation.gov.uk/eur/2013/609/contents)	Establishes compositional and information requirements for IFFOF, processed cereal-based food and baby food; FSMP, TDR for weight control	Great Britain
Commission Delegated Regulation (EU) 2016/127 (https://www.legislation.gov.uk/eur/2016/127/contents)	Sets specific standards and information requirements for IFFOF	Great Britain
Commission Delegated Regulation (EU) 2016/128 (https://www.legislation.gov.uk/eur/2016/128/contents)	Sets specific standards and so on for FSMP Implemented Directive 2006/141/EC – now replaced by CDR 2016/127	Great Britain
SI 2016/688 (https://www.legislation.gov.uk/uksi/2016/688)	Enforcement of Regulation 609/2013 and CDR 2016/128 Sets specific standards	England

NLCS REUL	Description	Applies to
	and so on for FSMP	
SI 2020/43 (https://www.legislation.gov.uk/uksi/2020/43/made)	Enforcement of CDR 2016/127	England
SI 2003/3207 (https://www.legislation.gov.uk/uksi/2003/3207/contents)	Implements Directive 96/5/EC – sets specific standards for processed cereal-based foods and baby foods	England
SSI 2004/8 (https://www.legislation.gov.uk/ssi/2004/8/contents)	Implements Directive 96/5/EC – sets specific standards for processed cereal-based foods and baby foods	Scotland
	Implements Directive 96/5/EC – sets specific standards for processed cereal-based foods and baby foods	
WSI 2004/314 (https://www.legislation.gov.uk/wsi/2004/314/contents/made)	Implements Directive 96/5/EC – sets specific standards for processed cereal-based foods and baby foods	Wales
NISI 2003/530 (https://www.legislation.gov.uk/nisr/2003/530/contents/made)	Implements Directive 96/5/EC – sets specific standards for processed cereal-based foods and baby foods	Northern Ireland
SI 1997/2182 (https://www.legislation.gov.uk/uksi/1997/2182/contents/made)	Implements Directive 96/8/EC for products for TDR	Great Britain
CR 953/2009 (https://www.legislation.gov.uk/eur/2009/953)	Sets standards for products for TDR – links	Great Britain

NLCS REUL	Description	Applies to
	with Directive 96/8/EC	
SI 2009/3051 (https://www.legislation.gov.uk/uksi/2009/3051/contents)	Enforcement of CR 953/2009	England
SI 2003/1387 (https://www.legislation.gov.uk/uksi/2003/1387/contents/made)	Implements Directive 2002/46/EC	England
SSI 2003/278 (https://www.legislation.gov.uk/ssi/2003/278/contents)	Implements Directive 2002/46/EC	Scotland
WSI 2003/1719 (https://www.legislation.gov.uk/wsi/2003/1719/contents)	Implements Directive 2002/46/EC	Wales
NISI 2003/273 (https://www.legislation.gov.uk/nisr/2003/273/contents/made)	Implements Directive 2002/46/EC	Northern Ireland

Table 2: nutrition-related REUL that are Commission Regulations, the countries each applies to, and proposed action

NLCS REUL – Commission Regulations	Description	Applies to	Annex, list or schedule present in	Proposal
CD 2009/980/EU	Authorise/refuse health claim and granted 5 year protection of proprietary data	Great Britain	Article 18 - Tomato Water – 2020/1476 adds this to the 432/2012 annex	Revoke
CR 983/2009	Authorise health claim	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 984/2009	Refuse health claim	Great Britain	Keep	Revoke
CR 1024/2009	Authorises and refuses health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 1025/2009	Refuses health claims	Great Britain	Keep	Revoke
CR 1167/2009	Refuses health claims	Great Britain	Keep	Revoke
CR 1168/2009	Refuse health claim	Great Britain	Keep	Revoke
CR 375/2010	Refuse health claim	Great Britain	Keep	Revoke
CR 376/2010	Amends CR 983/2009	Great Britain	Keep	Revoke
CR 382/2010	Refuses health claims	Great Britain	Keep	Revoke

NLCS REUL – Commission Regulations	Description	Applies to	Annex, list or schedule present in	Proposal
CR 383/2010	Refuse health claim	Great Britain	Keep	Revoke
CR 384/2010	Authorises and refuses health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CD 2010/770/EU	Amends CD 2009/980	Great Britain	Keep	Revoke
CR 957/2010	Authorises and refuses health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 958/2010	Refuse health claim	Great Britain	Keep	Revoke
CR 1161/2010	Refuses health claim	Great Britain	Keep	Revoke
CR 1162/2010	Refuses health claim	Great Britain	Keep	Revoke
CR 432/2011	Refuses health claim	Great Britain	Keep	Revoke
CR 440/2011	Authorises and refuses health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 665/2011	Authorises and refuses health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 666/2011	Refuses health claim	Great Britain	Keep	Revoke
CR 1160/2011	Authorises and refuses health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 1170/2011	Refuses health claim	Great Britain	Keep	Revoke
CR 1171/2011	Refuses health claim	Great Britain	Keep	Revoke
CR 378/2012	Refuses health claim	Great Britain	Keep	Revoke
CR 379/2012	Refuses health claim	Great Britain	Keep	Revoke
CR 1048/2012	Authorises health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 536/2013	Amends annex to Regulation 432/2012 to add claims that were not previously finalised	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CR 851/2013	Amends annex to Regulation 432/2012 to authorise claims	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in	Revoke

NLCS REUL – Commission Regulations	Description	Applies to	accordance with this Regulation Annex, list of schedule present in	Proposal
CR 1017/2013	Refuses health claim	Great Britain	Keep	Revoke
CR 1018/2013	Authorises health claim	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CR 1066/2013	Refuses health claim	Great Britain	Keep	Revoke
CR 40/2014	Authorises health claim and amended Regulation 432/2012	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CR 155/2014	Refuses health claim	Great Britain	Keep	Revoke
CR 175/2014	Refuses health claim	Great Britain	Keep	Revoke
CR 686/2014	Amends CR 983/2009	Great Britain	Keep	Revoke
CR 1135/2014	Authorises health claim	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 1154/2014	Refuses health claim	Great Britain	Keep	Revoke
CR 1226/2014	Authorises health claims	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 1228/2014	Authorises and refuses health claims	Great Britain	Keep	Keep
CR 1229/2014	Refuses health claim	Great Britain	Keep	Revoke
CR 2015/7	Authorises health claims and amended Regulation 432/2012	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CR 2015/8	Refuses health claim	Great Britain	Keep	Revoke
CR 2015/391	Refuses health claim	Great Britain	Keep	Revoke
CR 2015/402	Refuse health claim	Great Britain	Keep	Revoke
CR 2015/539	Authorises health claim and amended Regulation 432/2012	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CR 2015/1041	Refuses health claim	Great Britain	Keep	Revoke

NLCS REUL – Commission Regulations	Description	Applies to	Annex, list or schedule present in	Proposal
CR 2015/1052	Refuse health claim	Great Britain	Keep	Revoke
CR 2015/1886	Refuse health claim	Great Britain	Keep	Revoke
CR 2015/1898	Refuse health claim	Great Britain	Keep	Revoke
CR 2015/2314	Authorises health claim and amended Regulation 432/2012	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CR 2016/371	Refuse health claim	Great Britain	Keep	Revoke
CR 2016/372	Refuse health claim	Great Britain	Keep	Revoke
CIR 2016/854	Authorises health claim and amended 432/2012	Great Britain	Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CIR 2016/862	Refuse health claim	Great Britain	Keep	Revoke
CR 2016/1379	Refuse health claim	Great Britain	Keep	Revoke
CR 2016/1381	Refuse health claim	Great Britain	Keep	Revoke
CR 2016/1389	Authorises health claim	Great Britain	Authorisations included in annex to this Regulation	Keep
CR 2016/1390	Refuse health claim	Great Britain	Keep	Revoke
CR 2016/1411	Refuse health claim	Great Britain	Keep	Revoke
CR 2016/1412	Refuse health claim	Great Britain	Keep	Revoke
CR 2016/1413	Amends Regulation 432/2012	Great Britain	Keep	Revoke
CR 2017/236	Refuse health claim	Great Britain	Keep	Revoke
CIR 2017/672	Authorises health claim and amended Regulation 432/2012	Great Britain	The Annex to Regulation (EU) No 432/2012 is amended in accordance with this Regulation	Revoke
CIR 2017/676	Authorises health claim and amended Regulation 432/2012	Great Britain	The Annex to Regulation (EU) No 432/2012 is amended in	Revoke

NLCS REUL – Commission Regulations	Description	Applies to	Annex, list or schedule present in	Proposal
			accordance with this Regulation	
CR 2017/1200	Refuse health claim	Great Britain	Keep	Revoke
CR 2017/1201	Refuse health claim	Great Britain	Keep	Revoke
CR 2017/1202	Refuse health claim	Great Britain	Keep	Revoke
CR 2018/199	Refuse health claim	Great Britain	Keep	Revoke
CR 2018/1555	Refuse health claim	Great Britain	Keep	Revoke
CR 2018/1556	Refuse health claim	Great Britain	Keep	Revoke
CR 2019/651	Refuses health claim	Great Britain	Keep	Revoke

Privacy notice

Summary of initiative or policy

The government is determined to realise the benefits of EU exit by ensuring that regulation supports the UK's ambitions of creating the best regulated economy in the world, and stimulating economic growth, innovation and job creation. For NLCS this means:

- protecting consumer safety and public health
- ensuring accurate nutritional information so that consumers can make informed choices about their diet
- maintaining the competitiveness of NLCS businesses
- avoiding any unplanned intra-UK and wider international divergence to minimise barriers to trade

This 12-week consultation invites any person or organisation to provide their views and evidence on the reform proposals contained within this consultation which are largely technical in nature.

We welcome feedback on proposals which in summary would:

- reform the enforcement procedure for nutrition and health claims regulation in England by introducing an improvement notices regime
- revoke 60 Commission Delegated Regulations (CDRs) made by UK SIs (tertiary legislation) which approved or rejected health claims

Data controller

The Department of Health and Social Care (DHSC) is the data controller.

What personal data we collect

We collect and process the following personal data:

- the name of individuals who respond
- the address of individuals who respond
- the postcode for individuals who respond
- the phone number for individuals who respond
- whether you are responding as an individual or on behalf of an organisation and information about your area of work or your organisation where appropriate
- the number of employees in your organisation
- the geographical location of your organisation
- the international location of your organisation
- (if responding online) your internet protocol (IP) address (this is for security purposes and will not be attached to your survey response)

We also collect, if volunteered:

- your email address or your organisational email address or contact details (if confirming DHSC can contact you about your response)
- any other personal data you volunteer by way of evidence or example in your response to open-ended questions in the survey

How we use your data (purposes)

Your data will be treated in the strictest of confidence.

We collect your personal data as part of the consultation process:

- for statistical purposes - for example, to understand how representative the results are and whether views and experiences vary across demographics
- so that DHSC can contact you for further information about your response (if you have given your consent)

Legal basis for processing personal data

Under Article 6 of the United Kingdom General Data Protection Regulation (UK GDPR), the lawful basis we rely on for processing this information is Article 6(1)(e): “Necessary task in the public interest or controller’s official authority”.

Data processors and other recipients of personal data

All responses to the call for evidence will be seen by:

- professional analysts and policy leads working on the NLCS REUL consultation (or overlapping areas) in DHSC
- DHSC’s third-party supplier (SocialOptic), who is responsible for running and hosting the online survey

International data transfers and storage locations

Storage of data by DHSC is provided via secure computing infrastructure on servers located in the European Economic Area (EEA). Our platforms are subject to extensive security protections and encryption measures.

Retention and disposal policy

DHSC will retain your personal data for 2 years.

Data retention will be reviewed on an annual basis. Anonymised data will be kept indefinitely.

How we keep your data secure

DHSC uses appropriate technical, organisational and administrative security measures to protect any information we hold in our records from loss, misuse, unauthorised access, disclosure, alteration and destruction. We have written procedures and policies which are regularly audited and reviewed at a senior level.

SocialOptic is Cyber Essentials certified.

Your rights as a data subject

By law, data subjects have a number of rights and this processing does not take away or reduce these rights under the EU General Data Protection Regulation (2016/679) and the UK Data Protection Act 2018 applies.

These rights are:

1. The right to get copies of information - individuals have the right to ask for a copy of any information about them that is used.
2. The right to get information corrected - individuals have the right to ask for any information held about them that they think is inaccurate, to be corrected.
3. The right to limit how the information is used - individuals have the right to ask for any of the information held about them to be restricted - for example, if they think inaccurate information is being used.
4. The right to object to the information being used - individuals can ask for any information held about them to not be used. However, this is not an absolute right, and continued use of the information may be necessary, with individuals being advised if this is the case.
5. The right to get information deleted - this is not an absolute right, and continued use of the information may be necessary, with individuals being advised if this is the case.

Comments or complaints

Anyone unhappy or wishing to complain about how personal data is used as part of this programme should contact data_protection@dhsc.gov.uk in the first instance or write to:

Data Protection Officer
1st Floor North
39 Victoria Street
London
SW1H 0EU

Anyone who is still not satisfied can complain to the [Information Commissioner's Office \(http://www.ico.org.uk\)](http://www.ico.org.uk). Their postal address is:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow

Automated decision-making or profiling

No decision will be made about individuals solely based on automated decision-making (where a decision is taken about them using an electronic system without human involvement) which has a significant impact on them.

Changes to this policy

This privacy notice is kept under regular review. It was last updated on 9 August 2023.

1. Nutrition and Health Claims (England) Regulations 2007, the Nutrition and Health Claims (Scotland) Regulations 2007, and the Nutrition and Health Claims (Wales) Regulations 2007.

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