

Food and Drink Federation Written Submission to Inquiry into How is Devolution Changing post-EU?

The Food and Drink Federation (FDF) represents the food and drink manufacturing sector in Scotland, England and Wales and this response is provided on behalf of our members across the UK.

How devolution is now working following the UK's departure from the EU including your experience of the policy-making and legislative processes;

- It is still too early to fully understand how devolution will be impacted by the UK leaving the EU from a food and drink production perspective.
- To ensure a stable food and drink supply – and food security - across the UK, it is important that decisions are made that give long term certainty to the food and drink supply chain. At any given time decisions are being made about multiple years of crop planting, animal husbandry and production investment which will have to operate within the UK internal market.
- The FDF continues to advocate for the avoidance of barriers to trading within the UK as this is of critical importance to our members already disrupted supply chains. The food and drink manufacturing industry is a hugely important part of Scotland, England Wales and Northern Ireland's economy, turning over £112bn.
- Existing supply chains are highly integrated across the four nations, with ingredients and products potentially crossing borders multiple times including in NI with the Republic of Ireland.
- Multiple legal jurisdictions with multiple rules create confusion and cost for businesses and reduce their profitability.

How should devolution evolve post EU exit, to meet the challenges and opportunities of the new constitutional landscape;

- There's around 2,000 pieces of EU legislation that have been identified as directly attributable to the food and drink industry or farming.
- For the benefit of food and drink producers and consumers it is essential that governments across the UK work together to ensure any changes to regulations don't negatively impact on our food safety or undermine our access to valuable export markets.

How much scope there is for regulatory divergence in areas such as environmental standards, food standards and animal welfare between each of the four parts of the UK;

- As legislation, risk assessment and other regulation progress there are likely to be many areas of complexity, especially if the Scottish Government wishes to mirror EU law whilst other parts of the UK wish to take a different path. As

food, particularly food safety, is heavily regulated, there are many potential opportunities for inconsistency to develop. In particular the proposed removal of retained EU legislation at UK level sets up many potential conflicts for business if the devolved response is different from that of the UK Government.

- It is important to note that barriers to trade within UK single market will reduce consumer choice and by adding cost to the cost of doing business, will increase costs to the consumer.
- Where new barriers arise that leave Scottish (and UK) producers at a competitive disadvantage and disrupt the UK supply chain. In turn this could lead to increased food prices for consumers and could lead to retailers in the UK moving away from sourcing from UK producers to cheaper imports.
- Divergence could lead to additional costs for businesses, for example having more than one set of labelling to meet the different requirements of different jurisdictions.
- It is important that Scotland is not “locked out” of our biggest market –the UK – due to an internal divergence on food standards, or additional costs of regulatory compliance in the producing nation.
- Transporting goods through one part of the UK for export to the EU – could lead to similar challenges that we have seen with Northern Ireland.
- The complexity arising from regional divergence in standards creates confusion. Already under the NI protocol, we are seeing businesses in GB misinterpreting the NI position, refusing to trade as a consequence and refusing to accept the NI business explanations. Legal recourse to resolve, without an Ombudsman type role is likely to be drawn out and expensive.
- The forthcoming Deposit Return System (DRS) for Scotland due to be implemented on 16 August 2023 which would see a 20 pence deposit paid by consumers on each drinks container they purchase. A similar scheme has been proposed for England and Wales. The legislation for a DRS in Scotland is already in place (and so we understand would not be covered by the Internal Market Act) but by the time DRS legislation in England is brought forward it appears likely that these regulations would have to abide by the Internal Market Act.
- This may mean that there would be an impediment to placing bottle from England, Wales or Northern Ireland on the Scottish market (as it would need to be labelled and registered accordingly, or a fee paid) yet a Scottish bottle could be freely placed on the English market without having the same constraints – thereby increasing the potential for fraud.
- A way of decreasing fraud would be an aligned system design and timing across the UK which our industry has long called for.

- As another example, divergence on the calculation of the proposed Extended Producer Responsibility could see food and drink producers in Scotland having to pick up the cost of illegal littering which will lead to even more costs for Scottish businesses and consumers. We are urging the Scottish Government to drop this proposal.
- If one UK nation increased or lowered product standards in their own jurisdiction there might be areas where enhanced protection might, in principle, be desired.
- On food labelling, we believe there should be no impediments to products being sold in any part of the UK regardless of which UK nation's labelling is on it in future, should differing schemes emerge to ensure safety, authenticity and to minimise consumer confusion.

Are there sufficient safeguards to allow regulatory divergence across the four parts of the UK in areas where there are disagreements between governments?

- It is up to the four administrations across the UK to settle the best way to ensure smooth trading and we make no judgement on the form of the final arrangement.
- We have previously argued that the role of a scrutiny body should have a relevant relationship and accountability with all four legislatures. It will be interesting to see how the operation of the Office of the Internal Market at the CMA fulfils this brief.
- It is also vital that the dispute resolution function of any body is clearly understood by business, simple and clear to access, and backed by the different legislatures.

Are there sufficient safeguards to ensure an open and transparent policy-making and legislative process in determining the post-EU exit regulatory environment?

- Any system which is arrived at must have minimal invasion on our member's operations. Mutual recognition on production standards (be it environmental, labour or animal welfare) must be agreed at political level. More cost, audits, bureaucracy will not be welcomed.
- At individual business level it is important that businesses are not subject to conflicting advice by local officials. This could be exacerbated by the nature of the operation of the Internal Market Act. For example, if one council in one GB nation were to declare a product unfit for purpose, and yet that product (or the offending ingredients of that product) were imported into another council in another GB nation, would the relevant importer or local officials be informed of the breach? And how would this decision-making be challenged by a business? This looks like a bureaucratic mess which it would be very difficult for businesses to challenge effectively and quickly.

- Conversely, it is imperative that local officials and services are given the right resources to allow them to deal with these responsibilities effectively.
- It should also be noted that many food and drink businesses have multiple factories across the UK, where different productions standards may be legally mandated by their respective parliaments either currently or in the future. Any functioning Internal Market Act should be able to smooth out such problems to avoid business duplication, additional costs and critically to ensure that Scottish businesses are not disadvantaged.
- To allow for open and transparent policy-making, we would agree with the Constitution, Europe, External Affairs and Culture Committee that it would be useful for the Scottish Government to publish a list of all EU acts that it wishes to align with and for this to be updated annually to reflect new acts. We would note that UK and Welsh Governments should follow a similar process.

Is there sufficient clarity regarding the post-EU exit regulatory environment within Scotland and how it relates to the rest of the UK?

- It is too early to fully understand the impact the UK leaving the EU will have on our regulatory framework.
- Scotland and the rest of the UK produces high quality, tasty and safe food and drink that millions love to eat, both here and abroad. For the benefit of food and drink producers and consumers it is essential that governments across the UK work together to ensure any changes to regulations don't negatively impact on our food safety or undermine our access to valuable export markets.

About the Food and Drink Manufacturing Industry

Scotland has always had a strong success story in exporting our food and drink. We punch well above our weight for such a small nation, [Scotland accounts for the largest share of UK food and drink exports at almost 30% of total exports](#). Food and drink is Scotland's largest manufacturing sector and is an important part of a diverse and complex supply chain.

Scotland has a vibrant food and drink manufacturing industry ranging from thriving small businesses through to major global brands. These companies provide their local communities with a wide variety of careers and are a vital part of the Scottish economy.

Food and drink manufacturing in Scotland



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

ABIM	Association of Bakery Ingredient Manufacturers
BCA	British Coffee Association
BCUK	Breakfast Cereals UK
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
SA	Salt 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:

Biscuit, Cake, Chocolate and Confectionery Group (BCCC)
Frozen Food Group
Ice Cream Committee
Meat Group
Organic Group
Seafood Industry Alliance