

## Announcement

On 31 March 2022, the Food Standards Agency (FSA) published a list of [CBD products linked to credible novel food applications](#) (the CBD Product List), which contains CBD food products that meet the following criteria:

1. They were on the market on 13 February 2020
2. The FSA received an authorisation application for the products before 31 March 2021
3. The FSA has validated the application or agreed that it is sufficiently progressing towards validation

CBD is treated as a novel food and novel foods are, of course, required to be authorised before they are put on the market. However, since CBD was identified as a novel food, CBD-containing products have remained on sale in the UK, pending a decision on their authorisation. Now, any products that do not appear on the newly published CBD product list or are marked "Removed" must be removed from the market, with local authorities responsible for pursuing the company to remove the products from the market voluntarily. Local authorities will have powers to take enforcement action (subject to food laws) and can involve Trading Standards where products are not voluntarily removed from the market. The FSA has also advised local authorities that those products on the list marked as "Validated" or "Awaiting evidence" may stay on the market pending further consideration.

## The Legal Position

The law on novel foods in the UK derives from the EU Novel Food Regulation (retained EU law, [Regulation 2015/2283 on novel foods](#)). In England, breaching the Regulation is a criminal offence punishable by a fine under [The Novel Foods \(England\) Regulations 2018](#) (and there are separate, but broadly similar, provisions in Wales, Scotland, and Northern Ireland). Civil sanctions may also be imposed, including a £200 fixed penalty, and compliance and stop notices.

It is becoming increasingly popular for CBD to be included in food and drink products in the UK, even in products that would not normally be considered "CBD products", for example in alcoholic cocktails. In fact, the Association for the Cannabinoid Industry estimated that the UK CBD product industry in 2021 was worth £690 million. CBD-related activities are not explicitly restricted under misuse of drugs laws; however, operators should be aware that if a product marketed as a CBD product contains other cannabinoids, such as THC, the supply of such a product may well be unlawful. CBD products are available in the UK in cosmetic, food, food supplement, pet food and vape products. The use of cannabis-based products for medicinal purposes has also been legal since 1 November 2018 but only in strictly controlled circumstances.

The CBD Product List is only relevant for products categorised as 'food' (including supplements) which contain CBD. Products designed for inhalation (such as vapes), for the skin (such as cosmetics and massage oils) or any other type of application would not be under the FSA's remit, because they are not "food" and are, therefore, not governed by the novel foods regime (albeit other general product safety, or health and safety laws, may be relevant, particularly if the products were found to be unsafe).

## Next Steps

The listed applications are progressing and the applicants hope they will be fully authorised by the FSA, which will conduct a risk assessment to evaluate the suitability of the products for sale. To be on the CBD product list, the CBD products must comply with legislative requirements and must not be incorrectly labelled, unsafe, or regarded as a controlled substance. If, at a later date, an application is rejected, the product must be removed from the market as described above.

The FSA has noted in its guidance that although it is allowing these products onto the list, it does not endorse the sale of CBD products. It has also released [consumer advice on the consumption of CBD](#) for healthy adults and vulnerable groups, also noting that companies selling these products should inform consumers of the recommended limit. The FSA has also advised against the use of these products for people who are pregnant, breast-feeding or taking medication.

The FSA's objective in publishing the CBD Product List is to begin the process of bringing a previously unregulated market into compliance, creating safer products for consumers, as well as widening the market and creating potential for the CBD industry to grow even further, potentially bringing the UK up to being the largest market for consumer CBD (which is currently the US).

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