

EXPLANATORY MEMORANDUM TO
THE COUNTRY OF ORIGIN OF CERTAIN MEATS (ENGLAND) REGULATIONS
2015

2015 No. 518

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The main purpose of the Country of Origin of Certain Meats (England) Regulations 2015 is to provide enforcement powers to underpin the directly applicable European Commission Regulation (EU 1337/2013) regarding the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The EU Food Information to Consumers Regulation (FIC) (Regulation EU 1169/2011) is the new overarching EU Regulation on this subject.

4.2 The FIC required that the Commission, following impact assessments, adopted an implementing act concerning the application of Article 26(2b). That Article stated that the indication of the country of origin or place of provenance shall be mandatory for fresh, chilled or frozen meat of pigs, poultry, sheep and goats.

4.3 The Commission Implementing Act (1337/2013) was passed in December 2013; it shall apply from 1 April 2015, by which time the Government will need this Statutory Instrument to provide enforcement powers to underpin the European Regulation.

4.4 The Statutory Instrument (SI) applies and extends certain provisions of the Food Safety Act 1990 with modifications of section 10(1), enabling an improvement notice to be served requiring compliance with specified requirements of the EU Regulation. The provisions, as applied, make the failure to comply with an improvement notice an offence.

5. Territorial Extent and Application

5.1 The SI will only apply to England.

5.2 Scotland, Wales and Northern Ireland are introducing their own separate but parallel instruments to similar timescales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The SI follows the provisions and penalties set out in other recent food labelling Statutory Instruments such as the Products Containing Meat etc. (England) Regulations 2014 (SI 2014/3001), so there is consistency in the enforcement of food labelling rules. The broader policy aim is to meet the UK's obligations by including a proportionate, effective and risk based approach to the enforcement of the directly applicable Commission Implementing Regulation. The SI will use proportionate improvement notices (with a backstop criminal offence for failure to comply) for non-compliance. Businesses will have the opportunity to appeal against an improvement notice to the First-tier Tribunal.

8. Consultation outcome

8.1 A six-week targeted consultation with stakeholders and public enforcement bodies was held from 23 October 2014 to 4 December 2014 which sought their views on a paper setting out the Government's proposals to provide enforcement powers for the European Regulation in a Statutory Instrument. The proposed approach included the proposal that the Rural Payments Agency would be responsible for some of the enforcement and that the new SI would include provisions relating to Beef and Veal Labelling.

8.2 Of the 9 responses received, there were 5 responses concerning the enforcement powers, which were broadly supportive of the Government's proposed approach; 3 responses concerning batch codes; and 3 responses concerning the division of enforcement powers.

8.3 Following on from this, the responsibilities for enforcement will lie exclusively with Trading Standards Officials in their Local Authorities, and the provisions relating to Beef and Veal Labelling have been deleted. Stakeholders have been subsequently informed.

8.4 A summary of responses to the consultation will be available by the time the SI is laid before Parliament.

8.5 Scotland, Wales and Northern Ireland are running 12-week consultations on their respective SIs.

9. Guidance

9.1 Guidance notes to reflect the new Regulations are being prepared. These are going to be shared with interested parties for their feedback and further refined once the Regulation comes into force. Defra is currently reviewing all of its existing guidance material with the aim of reducing and simplifying the material it produces. The simplified guidance will be available to interested parties, including enforcement authorities, on the gov.uk website.

10. Impact

10.1 The impact of the SI will be only to provide enforcement powers for a directly applicable European Regulation and has no additional national measures which could have an impact on food sector businesses in the UK.

10.2 The move towards greater use of improvement notices as opposed to frontline criminal sanctions has a beneficial impact on the public sector. This is viewed as a more proportionate approach for less serious regulatory infringements such as non-food safety labelling infringements. The change will also benefit the court system by reducing the potential number of cases that would be heard in a magistrates' court. Nevertheless, local authorities will need to familiarise themselves with the new enforcement regime.

11. Regulating small business

11.1 The SI applies to small business. The vast majority of firms in the food industry are small businesses, so to exclude them would undermine the policy aims of the Regulations.

12. Monitoring & review

12.1 We will monitor the effectiveness of the designated enforcement powers, and consider if any alternatives might be more appropriate in the future.

13. Contact

13.1 Oliver Hamilton at the Department for Environment, Food and Rural Affairs can answer any queries regarding the instrument.

Contact: oliver.hamilton@defra.gsi.gov.uk, 0207 238 5164

13.2 In Oliver's absence please contact Stephen Pugh. Contact: stephen.pugh@defra.gsi.gov.uk, 020 7238 4339