

<p>Title: Review of the Animal By-Products (Identification) Regulations 1995 and potential transfer of provisions to the Animal By-Products (Enforcement) Regulations 2011 in England, Scotland and Wales</p> <p>IA No: DEFRA 1453</p> <p>Lead department or agency: Defra jointly with Food Standards Agency (FSA)</p> <p>Other departments or agencies: Animal Health and Veterinary Laboratories Agency, Devolved Administrations for Scotland and Wales</p>	Impact Assessment (IA)			
	Date: 27/2/2013			
	Stage: VALIDATION IA			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
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Summary: Intervention and Options

RPC Opinion:

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0.139m	£0.079m	-£0.008m	Yes OUT

What is the problem under consideration? Why is government intervention necessary?

The Animal By-Products (Identification) Regulations 1995 (the ABPI) are a national measure introduced principally to prevent fraudulent diversion of animal by products (ABPs) unfit for human consumption to the human food chain with a consequent threat to public health. However, as some provisions are now out of date or covered by subsequent EU legislation on ABPs/ Food Hygiene, Defra and the FSA jointly consulted industry on their review in 2012. In response to that consultation the Government now proposes to revoke the ABPI to remove duplication but update and transfer the provision requiring Food Business establishments to stain high risk ABPs to other domestic legislation implementing EU legislation on ABPs.

What are the policy objectives and the intended effects?

- (1) To streamline current national legislation on staining, labelling, segregating and storing ABPs in certain Food Business establishments and ABP premises by removing existing duplication and out of date terminology in order to facilitate compliance by business and the work of enforcement bodies;
- (2) To continue to protect public and animal health whilst minimising the burden of regulation, deregulating where safe to do so and aiming to achieve resource savings for business and enforcement bodies.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

(0) Do nothing - FSA to keep responsibility for the ABPI under the Food Safety Act and not update. This would maintain out of date and duplicated legal requirements with potential conflict with provisions in the Animal by-products (Enforcement) (England) Regulations 2011 (ABPEE) and equivalent SIs in Scotland and Wales. (1) FSA to keep responsibility for the ABPI but update provisions. Would have limited benefit for enforcers and business needing to comply with two pieces of legislation covering the same field. (2) FSA to revoke the ABPI without transfer of provisions. This could increase risks to public and animal health by raising the risk of fraudulent diversion of ABPs into the human food chain. There are currently public and media sensitivities following recent meat product contamination incidents involving horsemeat (3) Preferred Option - to repeal the ABPI but transfer certain provisions where appropriate to the ABPEE for England for which Defra is responsible and equivalent SIs for Scotland and Wales in line with above policy objectives.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: April/2018					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: George Eustice Date: 18 November 2013

Summary: Analysis & Evidence

Policy Option 1

Description: FSA to keep responsibility for the ABPI but update provisions.

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0.118

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.032	0	0.032

Description and scale of key monetised costs by 'main affected groups'

Streamlining the ABPI by removing duplicated provisions but retaining the requirement for Food Business establishments to stain ABPs (to deter fraudulent diversion of ABPs to the food chain) would give small (one-off) familiarisation costs to industry (£27,400) and government (£4,400) from, respectively, updating staff instructions and official guidance.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0.017	0.150

Description and scale of key monetised benefits by 'main affected groups'

Modest efficiency savings associated with more coherent, easier to follow legislation: £5,000 a year to government (FSA and AHVLA) and £12,400 a year to industry.

Other key non-monetised benefits by 'main affected groups'

Lower risk of legal challenge arising from inconsistent legislation. Additional flexibility for industry from allowing use of other (potentially cheaper) dyes that might become available in future, provided they can demonstrate their safety/efficacy

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Some uncertainty about precise scale of efficiency savings to industry and government and also costs to operators of complying with the staining requirements. Comments invited during consultation. One respondent referred to costs being an underestimate but provided no alternative figures or supporting evidence. Familiarisation costs were not disputed.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.003	Yes	OUT
Benefits: 0.012		
Net: 0.009		

Summary: Analysis & Evidence

Policy Option 2

Description: FSA to revoke the ABPI with no transfer of provisions.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 7.39

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.127	0.025	0.228

Description and scale of key monetised costs by 'main affected groups'

Going further and also removing the provision for Food Business establishments to stain certain ABPs by revoking the ABPI would give one-off transition costs of familiarisation with new arrangements for industry (£12,400) and one-off costs to government for notifying the sector of changes (£300). Additional costs to government (£25,000 a year) for increased supervision and monitoring to help ensure ABPs are kept separate from food for human consumption in the absence of their identification by visible black stain

Other key non-monetised costs by 'main affected groups'

Increased risk of illegal activity (diverting banned animal by-products back into the food chain) leading to outbreaks of foodborne illness. It has not been possible to measure the costs associated with this but the box on page 13 gives a sense of the scale of the costs to the public and industry.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		0.885	7.618

Description and scale of key monetised benefits by 'main affected groups'

Cost savings to industry from not having to stain certain animal by-products under the ABPI. Para 6.12 gives a detailed breakdown of the businesses affected and estimates how much it currently costs them to stain on an annual basis.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Potential increased risk of fraudulent diversion of ABPs to human food chain, with possible harm to human health/life, if this illegal activity becomes more likely in the absence of staining. Public/media sensitivities and meat product recalls following recent "contamination" incidents involving horsemeat.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.001	Yes	OUT
Benefits: 0.885		
Net: 0.884		

Summary: Analysis & Evidence

Policy Option 3

Description: To revoke ABPI but transfer certain provisions to the ABPEE for England (and equivalents for Scotland and Wales)

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0.139

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.032	0	0.032

Description and scale of key monetised costs by 'main affected groups'

Streamlining the legislation by revoking the ABPI but moving the provision for Food Business establishments to stain ABPs to Defra's ABP (Enforcement) regulations to sit with other ABP controls would give Small (one-off) familiarisation costs to industry (£27,400) and government (£4,400) from, respectively, updating staff instructions and official guidance.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		0.02	0.171

Description and scale of key monetised benefits by 'main affected groups'

Modest efficiency savings associated with more coherent, easier to follow legislation in one SI rather than two under Defra's "ownership" only: £7,500 a year to government (FSA and AHVLA) and £12,400 a year to industry.

Other key non-monetised benefits by 'main affected groups'

Lower risk of legal challenge arising from inconsistent legislation. Additional flexibility for industry from allowing use of other (potentially cheaper) dyes that might become available in future, provided they demonstrate their safety/efficacy

Key assumptions/sensitivities/risks

Some uncertainty about precise scale of efficiency savings to industry and government and also costs to operators of complying with the staining requirements. Comments invited during consultation. One respondent referred to costs being an underestimate but provided no alternative figures or supporting evidence. Familiarisation costs were not disputed.

Discount rate (%) 3.5

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.003	Yes	OUT
Benefits: 0.012		
Net: 0.009		

Evidence Base (for summary sheets)

1. PROBLEM UNDER CONSIDERATION:

1.1 Following the outcome of a joint Defra/Food Standards Agency (FSA) consultation last year to review the FSA's Animal By-Products (Identification) regulations 1995 (SI 1995/614) (ABPI) in the light of more recent EU legislation on animal by-products (ABPs), the Government is now proposing to revoke the ABPI to remove duplicated provisions and to update and transfer remaining provisions to Defra's Animal By-Products (Enforcement)(England) Regulations 2011 (SI 2011/881) (ABPEE) and (subject to DA agreement) to equivalent SIs for Scotland and Wales. The latter SIs enforce the directly applicable EU Regulations 1069/2009 and 142/2011 (together the "ABPR") on ABP controls and are therefore the more appropriate "home" for these provisions.

2. BACKGROUND TO THE ABPI REGULATIONS AND NEW EU LEGISLATION ON ABPS:

The ABPI:

2.1 The Animal By-Products (Identification) Regulations 1995 (ABPI) were introduced to help combat fraud in the meat industry by requiring Food Business establishments and certain ABP premises known as "collection centres" (where carcasses are skinned and eviscerated prior to using the material to feed hounds/zoo animals) to stain (with permanent black dye) certain ABPs— by definition not intended for human consumption – to help prevent their illegal diversion back to the human food chain with potential serious harm to human health (from food borne organisms potentially carried by those ABPs e.g. Salmonella, Campylobacter, *enterobacteriaceae*, *E-coli* and parasites such as *Cysticercus bovis* in cattle and Hydatid cyst in all red meat species). Such staining was considered to be a practical visible way to identify ABPs and thus help ensure their separation from offal and meat intended for human consumption and make illegal diversion more difficult. The regulations were originally deemed necessary because the then EU legislation covering ABPs (the Animal Waste Directive 90/667/EEC) did not have sufficient controls in this area to protect public health.

2.2 The ABPI were originally made jointly by the Minister of Agriculture, Fisheries and Food (before MAFF became part of Defra), the Secretary of State for Health and the Secretaries of State for Wales and Scotland under the Food Safety Act 1990 as a national GB measure. Since 2000, as a consequence of devolution and the creation of the FSA, Health Ministers have been solely responsible for the legislation in respect of England and Ministers for the Devolved Administrations have been responsible for Scotland and Wales. The original regulations have been amended a number of times in the wake of a number of large-scale cases of fraud (e.g. in the late 1990s where condemned chicken carcasses were illegally diverted to food retail outlets). Northern Ireland has always maintained its own separate but equivalent ABP identification regulations which are enforced by the Department for Agriculture and Rural Development Northern Ireland. The Regulations are currently enforced in Great Britain by the FSA Operations Group in slaughterhouses, cutting plants and game handling establishments and by Local Authorities in cold stores. AHVLA inspectors approve and inspect ABP premises where ABPs are subject to staining but involve LAs if prosecution might be needed.

The EU ABPR and national ABPEE / DA equivalents:

2.3 Following the BSE crisis and 2001 FMD outbreak in the UK, the European Commission introduced more stringent and comprehensive controls on ABPs in order to protect public and animal health, first by Regulation (EC) 1774/2002, which was subsequently reviewed and replaced by Regulation (EC) 1069/2009 and its implementing Commission Regulation 142/2011 (together the "ABPR"). The ABPR has a wide ranging definition of ABPs and allocates them all to one of three "risk categories", of which Category 1 is "very high risk", Category 2 is "high risk" and Category 3 is "low risk" in order to manage safely their uses and disposal routes. The ABPs covered by the ABPI generally fall under Category 2 although they also include Category 3 material that has "changed through decomposition or spoilage so as to present an unacceptable risk to public or animal health". (Category 1 ABPs are required to be stained under separate EU legislation on TSEs.) The ABPR has its own rules on storage, segregation, labelling of ABPs, to ensure those in different risk categories are kept separate and are used/disposed of appropriately, and on staining of Category 2 ABPs in "Collection Centres". (Collection Centres are ABP premises which handle ABPs intended for feeding to certain carnivorous

animals e.g. hunt kennels, zoos.) It also permits Member States to make provisions for “marking” of ABPs which remain in their territory and which would now provide a legal basis for the staining currently carried out in establishments under the ABPI using the Food Safety Act. This all means there is now duplication of provisions and conflicting terminology between the ABPI and the ABPEE and equivalent DA legislation, which are made under the European Communities Act 1972 to enforce the ABPR. There is also some minor duplication with EU Food Hygiene Regulations 852/2004 and 853/2004.

2.4 Therefore, in 2009 the FSA decided with Defra that the requirement for Defra and DAs to update their broader ranging domestic legislation on ABP controls to implement the new ABPR provided a useful opportunity to consider transferring certain ABPI provisions to Defra and the DAs’ SIs, principally to streamline ABP controls by having them in a single piece of legislation. It was agreed to pursue this issue once Defra and the DAs had brought their new SIs into force, to avoid delaying their introduction and allow an initial consultation with the industry on their views. The replacement Animal By-Products (Enforcement) (England) Regulations 2011 (ABPEE) came into force in March 2011, along with similar SIs in Scotland, Wales and Northern Ireland. A joint Defra/FSA led Project Board was set up in June 2011 to take the review of the ABPI forward, and consequently in 2012 Defra and the FSA jointly consulted stakeholders (in the 8 week period 27 September – 21 November) on proposals for updating the ABPI with respect to England. Similar consultation exercises were carried out in respect of Scotland and Northern Ireland (for equivalent NI legislation) and a Welsh Government consultation in respect of Wales is due to close on 7 March 2013.

3. RATIONALE FOR INTERVENTION AND POLICY OBJECTIVE:

3.1 Now that there is specific EU legislation (the ABPR) in place, the main purpose of which is to ensure that ABPs are used, processed and disposed of safely in order to protect public and animal health, and industry have been consulted on their views, the Government considers that revoking the ABPI (made under the national Food Safety Act in the then absence of suitable EU provisions), would usefully remove duplication with other legislation and allow the transfer of remaining updated provisions to the more appropriate ABPEE and equivalent SIs in Scotland and Wales (which implement the ABPR). This would help simplify and clarify the legislation, enable businesses and enforcement bodies to work more efficiently and facilitate compliance by Food Business establishments and ABP premises. This is also an opportunity to give greater flexibility to industry by allowing the use of other, cheaper dyes should they become available in future, provided they show this can be done safely. These amendments should produce savings in resources for businesses and enforcement bodies.

3.2 The Government’s objective is to simplify, clarify and remove duplication from existing legislation on staining ABPs, whilst ensuring that the controls in place to address the possible fraudulent diversion of ABPs to the human or animal food chains are sufficient to safeguard public and animal health and do not pose a disproportionate financial or administrative burden on the industry.

4. CONSULTATION PROCESS

4.1 Initially, in order to obtain a preliminary idea of how the industry would feel about revising or revoking the ABPI, when Defra and the DAs consulted stakeholders in July 2010 about wider proposals to implement the new ABPR in each of England, Wales, Scotland and Northern Ireland, they included the question:

“Do you consider that the provisions of the Animal By-Product (Identification) Regulations 1995 (as amended) should be retained, in full or in part?”

4.2 The general view given by respondents was that physical staining of ABPs was an important measure to deter fraud. Most respondents did not comment on other provisions covering storage, segregation and labelling. For England, there were 13 responses with 12 respondents in favour of retaining staining. For Wales, 3 responses were received with 2 in favour of retention. For Scotland there were 10 responses with 9 in favour of retention in full and 1 wanting at least provisions to ensure correct identification and prevent fraud. 2 respondents wanted further strengthening/extension of current ABP controls. Finally, for Northern Ireland there were 3 responses with all in favour of retaining staining.

4.3 These initial views received effectively supported Options 1 and 3, which would retain physical staining but remove duplicated provisions on segregation, labelling and storage. Option 2 to remove the ABPI provisions altogether for Food Business establishments was generally not favoured by industry.

4.4 During the next stage, Defra carried out a more detailed and comprehensive 8 week consultation in respect of England in the autumn of 2012, for which five responses were received. This time, three respondents (including two from the rendering industry) supported the Government's preference (Option 3) whereas the other two (representing the meat production industry) considered that requiring Food Business establishments to stain was an unnecessary burden, particularly in view of the EU traceability requirements now in place. These views have been considered against the need to ensure that the level of protection to public and animal health is not diminished when amending legislation. For the equivalent consultation for Scotland there was one response (which supported the Government's position.) The equivalent consultation for Wales will close on 7 March.

5. BUSINESSES AFFECTED:

5.1 Currently, under the ABPI, the following businesses in GB must stain (with colouring agent Black PN or Brilliant Black BN) Category 2 ABPs on a regular basis and comply with provisions on segregation, storage and labelling:

- 80 poultry slaughterhouses
- 262 red meat slaughterhouses (stain infrequently)
- 60 game slaughterhouses
- 16 game handling establishments
- 616 standalone cutting plants (stain infrequently)
- 210 Collection Centres -mostly hunt kennels

Collection centres are micro- businesses (10 or fewer full time equivalents) – see section 9 seeking waiver to moratorium.

5.2 Cold stores generally do not need to stain but still have to comply with the provisions on segregation, storage and labeling.

6. OPTIONS CONSIDERED AND APPRAISAL OF MONETISED AND NON-MONETISED COSTS AND BENEFITS OF EACH OPTION RELATIVE TO THE BASELINE OPTION 0:

6.1 In summary, options considered as part of this review are:

- Option 0: "Do nothing" i.e. the FSA would keep responsibility of the ABPI and not update it;
- Option 1: the FSA would keep but update the ABPI. It would retain the provision for Food Business establishments to stain Category 2 ABPs, but possibly allow other dyes to be used, and remove duplicated provisions on staining in ABP premises, storage, segregation and labeling. Defra would not need to amend the ABPEE;
- Option 2: the FSA would revoke the ABPI entirely. This would remove the requirement for Food Business establishments to stain Category 2 ABPs. However, staining in ABP premises would continue to be required under the ABPEE which would also continue to cover provisions on storage, segregation and identification. Defra would not need to amend the ABPEE;
- Option 3: Defra would amend the ABPEE and in so doing revoke the ABPI and take over the provision to require staining in Food Business establishments possibly allowing other dyes to be used. This would remove duplication of provisions on staining in ABP premises, storage, segregation and identification.

Following consultation, **Option 3** remains the preferred Option because it would retain the same level of protection to human and animal health by retaining the staining provision in Food Business establishments but also streamline the controls by removing an unnecessary separate SI along with duplicated provisions. Permanent staining of ABPs when properly done reduces the possibility of fraudulent diversion of unfit material into the human food chain by providing a clear and visible deterrent

that is also relatively cheap and easy to carry out with minimal staff training. Although EU Regulations do contain traceability requirements for the safe handling and disposal of ABPs we do not consider that these alone would protect adequately against deliberate diversion into the food chain and the potentially serious consequences for human health. Should the staining requirement be removed, levels of official supervision and enforcement would have to be increased in order to maintain the same level of protection to public health, which would be costly and resource intensive for Government.

Summary of Options and Key Costs and Benefits relative to Baseline

(Note: A more detailed table comparing costs and benefits of Options 1-3 is at **Appendix 1**. Appendix 1 reproduces cost/benefit data from paragraphs below to make direct comparison easier.)

	Option 1	Option 2	Option 3
Description	FSA keep responsibility for ABPI but update provisions	ABPI revoked	ABPI revoked but transfer of provisions to ABPEE
Costs	1. Small one-off familiarisation costs to industry and government	1. Small one-off familiarisation costs to industry. 2. Additional annual costs to government for supervising handling of ABP in absence of staining. 3. Increased risk of illegal activity leading to outbreaks of foodborne illness.	1. Small one-off familiarisation costs to industry and government
Benefits	1. Annual efficiency savings accruing to industry and government from easier to follow, more coherent legislation.	1. Cost saving to industry from not having to stain certain ABP.	1. Annual efficiency savings accruing to industry and government from easier to follow, more coherent legislation. (with benefits expected to be larger than option 1)

Option 0 – Do Nothing

6.2 Under the baseline of “doing nothing” the FSA would keep responsibility for the ABPI and not update regulations. This would maintain the following activities and consequences for Government, industry and the public.

6.3 Government bodies undertake the following activities to enforce the ABPI:

- a) The **FSA** Operations Group inspect slaughter houses, cutting plants and game handling establishments and take enforcement action if necessary (annual costs are approximately £0.5m in GB, nearly all for slaughterhouses and cutting plants);

- b) **LAs** enforce at cold stores (annual costs are absorbed in normal working instructions so are minimal);
- c) The **AHVLA** inspect Collection Centres (CC) (mostly hunt kennels but also some other premises e.g. knackers yards). AHVLA may also collaborate with LAs to take enforcement action if necessary (annual costs for AHVLA are approximately £10,773 - £21,546 for around 1,470 visits to all GB CCs requiring 16 - 32 working days of VO time; annual LA costs are absorbed in normal working instructions so are minimal)

6.4 These enforcement bodies also enforce similar provisions on segregation, labelling and storage and staining in ABP premises under the ABPR/ABPEE (and equivalent SIs in Wales and Scotland). They cover the same establishments/ABP premises as above with the AHVLA additionally inspecting cold stores.

6.5 Industry i.e. all slaughterhouses, cutting plants, cold stores and game handling establishments are required to carry out the following activities:

- a) stain Category 2 ABPs with colouring agent Black PN or Brilliant Black BN (E151, colour index 197 No 28440) (unless they are mixed with Category 2 gut content/manure – the standard, permitted, practice at many red meat slaughter houses)
- b) comply with rules on segregation, storage and labelling which duplicate rules they must also comply with under the ABPEE and equivalent SIs for Scotland and Wales

6.6 ABP premises (i.e. collection centres e.g. hunt kennels and zoos) are also required to stain Category 2 ABPs which are intended for feeding (e.g. to hounds) with the above colouring agent Black PN or Brilliant Black BN. This goes further than the requirements under EU ABP Regulations 1069/2009 and 142/2011 (Annex VI, Chapter II, Section 1 paragraph 4) and ABPEE etc, which provide 3 “treatment” options for Category 2 ABPs including denaturing with a solution of an unspecified colouring agent.

6.7 The consequences for the Government (i.e. Defra, FSA, AHVLA and LAs) of “doing nothing” would be inefficient by maintaining 2 sources of confusion for Government inspectors /enforcers and industry operators, arising from:

- a) Out of date, duplicated and possibly ambiguous provisions and terminology in the ABPI compared to the ABPR/ABPEE above, and
- b) the fact that ABP provisions are in two sets of legislation made under different primary legislation and held by different Departments which have different responsibilities.

6.8 In addition, as Regulation 142/2011 includes provision for national rules to mark ABPs to ensure they are properly identified in accordance with the ABPR it is now unnecessary for staining requirements in slaughterhouses, cutting plants, cold stores and game handling establishments to be covered by the ABPI under the Food Safety Act.

6.9 However, a benefit is that the requirement to stain as an anti-fraud measure maintains the controls Government has considered necessary for protecting human health (from food borne organisms e.g. salmonella, campylobacter, enterobacteriaecae, e coli) and mitigates against the risks of incurring costs associated with dealing with potential disease outbreaks / health scare. Government has a reasonable level of confidence that the measures provide the above assurances as compliance in premises is generally good and on average there are just two convictions a year under the ABPI.

6.10 In addition, staining in establishments has the following positive effects:

- a) It maintains reputation of industry re protecting human health
- b) It helps maintain meat sales/exports (due to reputation for safety)
- c) It helps prevent industry costs and taxpayer from having to contain any public health scare

6.11 Other ABPI provisions on segregation, storage and labelling have a neutral effect as establishments must already comply with similar EU provisions under the ABPR/ABPEE etc.

6.12 A typical Food Business establishment slaughtering 800,000 poultry (chickens) a week has advised that staff resources for preparing and applying stain are negligible as this can be done quickly and easily as part of routine duties. For establishments, typically a container of stain is made up by dissolving powdered dye in water. This solution is then poured over the ABPs (using a bucket) in their collection container first once it is half full and then again later when completely full to ensure complete coverage. For Collection Centres the dye solution is instead sprayed (using a garden type spray) onto the Category 2 flesh that is going to be fed to hounds or zoo animals. The legislation requires that every surface is covered in the dye. Prices for dye depend on the volumes purchased. In a poultry slaughterhouse slaughtering 800,000 chickens a week the cost is likely to be around £25/Kg. However, for a Collection Centre which will be feeding the stained ABPs to carnivores the following dye prices are typical: Granular Black: £47- £60/kg (depending on how much purchased); Liquid Black: £53 - £80/kg. Estimated costs for staining (with colouring agent **Black PN or Brilliant Black BN**) in establishments and collection centres are as follows:

- 80 poultry slaughterhouses (of which under 10 slaughter turkeys) – estimated cost of £300/week (£15,600/year) for staining in a typical establishment slaughtering 800,000 chickens/week, and an estimated £1,700/week (£88,400/year) for a typical establishment slaughtering 100,000 turkeys/week; around 840m chickens slaughtered per year in GB giving **estimated total annual costs for staining for poultry (chicken) industry of £315,000** (i.e. estimated annual cost of £15,600 for staining in a typical establishment multiplied by 840m/(800,000 chickens x 52 weeks)). Around 12m turkeys slaughtered per year in GB giving **estimated total annual costs for staining poultry (turkey) industry of £204,000** (i.e. estimated annual cost of £88,400 for staining in a typical establishment x 12m/(100,000 turkeys x 52 weeks)).
- 262 red meat slaughterhouses - estimated average cost of £20/week (£1,040/year) for staining in a typical establishment i.e. around **£272,000/year** (£1,040 x 262, rounding down) for all GB red meat slaughterhouses) (significantly less than poultry slaughterhouses as usual practice is to mix ABPs with manure and gut content which is permitted as an alternative to staining);
- 60 game slaughterhouses - estimated average cost of £10/week (£520/year) for staining in a typical establishment i.e. around **£31,000/year** (£520 x 60, rounding down) for all GB game slaughterhouses;
- 16 game handling establishments - at an estimated average cost of £10/week (£520/year) for staining in a typical establishment i.e. around **£8,000/year** (£520 x 16, rounding down) for all GB game handling establishments ;
- 616 standalone cutting plants that stain infrequently – estimated **negligible cost**;
- 210 Collection Centers (mostly hunt kennels preparing material for feeding fallen stock to hounds) –estimated average cost of £50 /week (£2,600/year) for Category 2 ABP to be used as feeding material i.e. around **£55,000/year** (£2,600 x 210) for staining in all GB Collection Centres.

6.13 The consequences for the public are to protect public health protected from food borne organisms e.g. Salmonella, Campylobacter, *enterobacteriaceae*, *E-coli* and parasites such as *Cysticercus bovis* in cattle and Hydatid cyst in all red meat species

6.14 To summarise, “doing nothing” would keep out of date and duplicated provisions in force, which gives rise to potential conflict with the provisions of the ABPR/ ABPEE and similar in Scotland and Wales. Whilst the anti-fraud measures maintaining the controls Government deemed necessary to protect human health and mitigate against the risks of incurring costs associated with dealing with potential disease outbreaks would remain in place, there would be duplication with rules on segregation, storage and labelling under the ABPEE and equivalent SIs for Scotland and Wales. Staining requirements for ABP premises would go further than the requirements under the ABPEE etc, which simply require them to ensure Category 2 APBs are denatured with a solution of an *unspecified* colouring agent. Also, the ABPR includes provision for national rules to mark ABPs to ensure they are properly identified in accordance with the ABPR, which would seem a more appropriate legal basis for the staining requirements in establishments rather than the Food Safety Act used by the ABPI.

6.15 “Do nothing” is therefore not favoured because the outcome would be to maintain a confusing and in part contradictory set of measures for enforcers (FSA, AHVLA and LAs) and industry operators above from (1) interpreting and applying out of date, duplicated and ambiguous provisions in the ABPI compared to the ABPEE etc; and (2) the fact that ABP provisions are in two sets of legislation made

under different primary legislation and held by different Departments with different responsibilities. This makes it more difficult for enforcers and operators to work to maximum efficiency and could be challengeable in the case of Government proceedings taken under the legislation.

Option 1 – Do minimum

6.16 By doing the minimum, the FSA would still keep responsibility for the ABPI but go further and update the ABPI provisions. It would keep the anti fraud measures in place with maintained levels of protection to human health and reduce the likelihood of costs to Government and industry from having to deal with disease outbreaks and health scares. It would go further by updating out of date terminology (for example “definition of an ABP”), removing duplication of provisions (notably on segregation, storage and labelling) and allowing establishments and ABP premises to use alternative, cheaper dyes should these become available in future. An updated ABPI would be more coherent and easier to follow for enforcers, albeit with some familiarisation costs to enforcers (FSA, AHVLA and LAs) and industry.

6.17 However this option would retain the same confusion from two separate pieces of legislation covering the same field which is not desirable or sensible for enforcers and operators faced with having to interpret and comply with two pieces of legislation which are held by different Departments with different responsibilities.

6.18 Monetised costs and benefits are estimated to be as follows:

a) Costs to Government:

Inspection costs for FSA/AHVLA/LA as for Option 0 i.e. no change in these costs.

There would however be small one-off familiarisation cost (estimated) of around **£4,400** comprising:

- FSA: £4,000 to update Manual of Official Controls (MoC) + £182 for Veterinary Manager (VM) time (2 hours @ £90.99/hour)
- AHVLA: £182 to update online guidance and write to 210 CCs ([2hours] of Veterinary Officer (VO) time @ £90.99/hour)
- LA: negligible (would just forward FSA guidance to businesses)

b) Cost to Industry

Small one-off familiarisation cost (estimated) to whole industry of around **£27,400** comprising:

- Establishments: It is estimated that it would take a typical food business manager 2 hours @ hourly rate of £12 for familiarisation with changes and dissemination of updated information to staff. There are 1034 establishments, giving a total estimated cost of **£24,816** (£24 x 1034)
- ABP premises: It is estimated that it would take a typical CC manager 1 hour @ hourly rate of £ 12 for familiarisation with changes and dissemination of updated information to staff. There are 210 Collection Centres giving a total estimated cost of **£2,520**.

c) Costs to Public:

As for Option 0 (ie no additional costs)

d) Benefits to Government:

Benefits to government would be the same as for Option 0 (i.e. retaining same anti fraud measures (from staining) would maintain the same level of protection to public health.) but additionally there would be:

estimated 1% efficiency savings of **£5,000** for FSA inspections/ enforcement as updated ABPI would be more coherent and easier to follow for enforcers (i.e. 1% of £0.5m). This is a notional

efficiency gain although we would expect to achieve such a gain. Our estimates were not challenged during consultation.

Also, specifying the dye CCs are permitted to use in guidance rather than by statute would enable Government to respond more quickly, with less staff resources, to industry needs as it would not be necessary to amend legislation if new dyes were placed on the market which met the requirements of the EU ABP legislation.

In addition, there would be less risk of legal challenge from inconsistent legislation.

e) Benefits to Industry:

Benefits to industry would be the same as for Option 0 (i.e. retaining same anti fraud measures (from staining) would maintain the industry's reputation.) but additionally there would be:

estimated efficiency savings of **£12,400** for establishments as updated ABPI would be more coherent and easier to follow for operators. (Assumes savings of 1 hour a year @ £12/hour¹= £12,400 for 1,034 establishments. These are conservative estimates of expected efficiency savings.

Also, it would be possible without further amending the legislation to allow establishments to use different, cheaper dyes if these became available in future, provided product safety/efficacy could be demonstrated. (At present only colouring agents Black PN or Brilliant Black BN are permitted by the ABPI.)

f) Benefits to Public:

As for Option 0 (i.e. retaining same anti fraud measures (from staining) would maintain level of protection to public.) i.e. no additional benefits to the public

Costs and Benefits of Option 1 (at constant prices and present value (1)) £'000

	Tran (2)	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs												
Govt	4.4	-	-	-	-	-	-	-	-	-	-	4.4
Industry	27.4	-	-	-	-	-	-	-	-	-	-	27.4
Total	31.8	-	-	-	-	-	-	-	-	-	-	31.8
PV	31.8	-	-	-	-	-	-	-	-	-	-	31.8
Benefits												
Govt	-	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	50.0
Industry	-	12.4	12.4	12.4	12.4	12.4	12.4	12.4	12.4	12.4	12.4	124.0
Total	-	17.4	17.4	17.4	17.4	17.4	17.4	17.4	17.4	17.4	17.4	174.0
PV		17.4	16.8	16.2	15.7	15.2	14.7	14.2	13.7	13.2	12.8	149.8

(1) discounted at 3.5% pa (2) Transitional (one-off) costs incurred in 2013

Option 2

6.19 For Option 2 the FSA would revoke the ABPI with no transfer of provisions. This would therefore be the most deregulatory route. On the face of it this option appears attractive as it would remove duplicated provisions and also annual inspection costs to the FSA of around £0.5 million/year (costs to AHVLA and LAs are significantly less) as well as giving savings to establishments that would no longer have to purchase/apply dye to ABPs. (For ABP premises this saving would be less as they still have to treat under ABPEE.) However, this option is not favoured because removing the staining provisions could potentially impact significantly on human health/life, and consequently on costs to Government and industry, as it would be easier for those so minded to illegally divert ABPs (possibly containing salmonella, campylobacter, enterobacteriaecae, e coli etc.) to the human food chain. Also, the recent discovery of horse meat in processed beef products (implying either negligence or criminal activity) underlines the need for adequate controls and the dangers of injudicious deregulation of the food chain. The box below outlines the possible scale of the costs associated with foodborne illness.

¹ Based on standard rate for general administrator (including 30% overhead) updated to approximate rate expected to apply in 2013

Costs of foodborne illness

The Food Standards Agency estimates the cost of foodborne illness in England and Wales annually. The overall estimated cost of foodborne illness in England and Wales has remained below the updated baseline level of £1.9bn in 2000 (the first year of the Agency's work) and has remained fairly stable since 2005 at around £1.5bn. The total costs of illness includes the direct costs to the NHS and individuals in loss of earnings etc as well as the indirect costs associated with pain, grief and suffering. They do not however include the costs to business of product recalls and damage to reputation and brands that might be experienced (see below).

Some details of the impact of foodborne disease, including incidence, hospitalisations, mortality and total costs are shown by pathogen in the table below.

Estimated Impact of Indigenous Foodborne Disease in England and Wales 2007 (1)

Estimated Impact of Indigenous Foodborne Disease in England and Wales 2007 (1)	Deaths	Hospitalisations	New Cases	Total Cost of Illness (£'000)
Campylobacter spp	80	15,729	333,652	591,052
Listeria monocytogenes	162	455	455	245,265
Salmonellas	92	1,170	32,115	224,373
Norovirus	29	111	175,250	137,312
EcoliO157	21	349	920	58,008
Clostridium perfringens	20	78	18,540	56,748
Other bacteria/virus/etc.	15	832	123,737	99,308
Unknown agents (2)	24	183	241,098	163,576
Total	443	18,906	925,766	1,562,143

Source: Food Standards Agency

(1) Estimated cases in England and Wales for 2007, Health Protection Agency ; (2) 'unknown agents' are the element of the estimate for total cases of foodborne disease not accounted for by estimates on individual known pathogens.

The average cost of food borne illness is about £1,700 per person affected – an outbreak affecting 50 people would on average cost about £85,000. Clearly more serious outbreaks involving more people, hospitalisations and fatalities would cost more. In addition to these public health costs there may also be costs for industry to deal with high-profile food poisoning incidents (e.g. for recall and disposal of a range of products) and costs to government in managing and containing the outbreak. A confectionery company has claimed that a previous microbiological contamination incident cost it £20 million in product recalls, equipment and process review and replacement, and damage to its reputation, with an additional £1 million fine for breaches of food safety regulations.

It is not possible to quantify the risk associated with the relaxation of staining measures outlined in option 2 and therefore we cannot monetise the expected cost of a food poisoning incident associated with the proposed measures. The purpose of this box is simply to demonstrate that the costs to society of such an incident could be significant and therefore the costs of avoiding such incidents worthwhile.

6.20 The Increased likelihood of public health scares could require potentially very high Government costs to bring any situation under control. In addition the Government could also have to resort to

greater enforcement costs if revoking the ABPI resulted in unfit meat going on the market or had to be mitigated by increased control measures in establishments to keep fit/unfit material separate in absence of staining. Staining is the easiest way of identifying ABPs and ensuring its separation from offal and meat that can be consumed. If the staining requirements were revoked, it might be possible to increase the controls to ensure that Category 2 material remains segregated in separate clearly labelled bins in slaughterhouses and cutting plants, but (a) this is likely to require greater enforcement oversight, particularly in cutting plants where there is no longer a full time official presence; and (b) it is difficult to see how unstained Category 2 material could be controlled once it has left these premises except through greater oversight throughout the chain and thus increased enforcement costs. These costs could presumably be recovered from the industry, but they would be likely to negate any cost savings to it from the use of cheaper dyes or of not using dyes at all. So, despite maintaining or even increasing controls and supervision the risks to public health of unfit material being illegally diverted into the food chain would increase.

6.21 The increased likelihood of public health scares could also have negative consequences for industry with damage to reputation with reduced meat sales/exports and costs to comply with Government control measures. (In GB there are 418 slaughterhouses that stain ABP on a daily basis and 616 standalone cutting plants that would all do some staining.)

6.22 Monetised costs and benefits are as follows:

a) Costs to Government:

Increased supervision required by FSA inspectors to compensate for loss of staining controls could cost the FSA an estimated **£25,000/year** (Assumes a 5% increase of current £0.5m)

The FSA do not routinely collect information on the costs of food or feed safety incidents, which will vary widely depending on their nature, extent and duration and which in many cases are difficult to separate from costs of normal enforcement and monitoring action (e.g. VO visits to farms, a feed or food business operator's normal sampling programme, local authority TSO visits to feed compounders, etc.).

Small one-off cost of £270 to AHVLA to update website, prepare letter and send to 210 Collection Centres to advise of the change (Assumes 3 hours of a VO's time @ £90.99/hour).

b) Costs to Industry:

Visibly staining ABPs (which potentially carry a number of organisms harmful to human health) with a permanent dye makes it easier to ensure those ABPs are kept separate from material destined for human consumption and thereby deters fraudulent diversion which could harm the industry's reputation. This view is supported by the rendering sector, which receives stained ABPs from the meat processing sector, and where it is important to keep these segregated from unstained material of a lower risk category. There are different processing requirements and uses for stained and unstained material by the rendering industry and it is essential these are kept separate for the protection of public and animal health. It has not been possible to estimate the risk and potential costs associated with fraudulent activity leading to major food poisoning incidents but the box above gives an indication of the costs to industry and the public health costs.

Familiarisation costs (estimated) of **£12,400** for establishments: it is assumed that it would take a typical food business manager 1 hour @ hourly rate of £12 for familiarisation with changes and dissemination of updated information to staff. There are 1034 establishments, giving a total cost of £12,408. This would be a one-off cost.

c) Costs to Public:

Industry might pass on costs to consumers in the wake of a major food safety incident.

Increased likelihood of public health scares could lead to serious harm to public health or even death (see box)

d) Benefits to Government

It might appear that there would no longer be annual costs of some £0.5m/year for FSA inspections, but these costs would probably actually have to increase to maintain a reasonable level of protection to public health in the absence of staining – see costs to government above.

Efficiency savings to FSA and LA enforcers from greater clarity over which SI to prosecute under Negligible efficiency savings to AHVLA which would continue carrying out risk based inspections of CCs still required to stain under ABPR.

Negligible efficiency savings for LAs.

Also, if the dye CCs are permitted to use is specified in guidance or by more flexibly worded statute this would enable Government to respond more quickly, with less staff resources, should equally effective but cheaper dyes become available as it would not be necessary to amend legislation. In addition, simpler legislation would mean less likelihood of legal challenge.

Benefits to Industry:

Industry will save the costs associated with staining animal by-product material in establishments. This will amount to around £885,000 a year. See paragraph 6.12 above for further details.

e) Benefits to Public:

None

Costs and Benefits of Option 2 (at constant prices and present value (1)) £'000

	Tran (2)	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs												
Govt	0.3	25.0	25.0	25.0	25.0	25.0	25.0	25.0	25.0	25.0	25.0	250.3
Industry	12.4	-	-	-	-	-	-	-	-	-	-	12.4
Total	12.7	25.0	25.0	25.0	25.0	25.0	25.0	25.0	25.0	25.0	25.0	262.7
PV	12.7	25.0	24.2	23.3	22.5	21.8	21.0	20.3	19.6	19.0	18.3	227.9
Benefits												
Govt	-	-	-	-	-	-	-	-	-	-	-	-
Industry	-	885.0	885.0	885.0	885.0	885.0	885.0	885.0	885.0	885.0	885.0	8,850.0
Total	-	885.0	885.0	885.0	885.0	885.0	885.0	885.0	885.0	885.0	885.0	8,850.0
PV		885.0	855.1	826.2	798.2	771.2	745.1	719.9	695.6	672.1	649.4	7,617.8

(1) discounted at 3.5% pa (2) Transitional (one-off) costs incurred in 2013

Option 3 – Preferred Option

6.23 The preferred option is to repeal the ABPI and thereby remove duplicated provisions on segregation, storage and labelling, and staining in ABP premises, but to update and transfer provisions

on staining in establishments to the ABPEE and DA equivalents using provisions in the ABPR as a legal basis instead of the Food Safety Act. (Regulation 142/2011 allows Member States to have their own national marking systems at their own discretion.) This would keep the anti fraud measures in place with maintained levels of protection to human health and minimise likely costs to Government and industry from having to deal with disease outbreaks and health scares. (Removing the requirement for establishments to stain would require a corresponding costly increase in official supervision and enforcement levels to prevent an increase in the latter.) However, as the staining provisions would be located more logically with other ABP measures in the ABPEE and equivalents held by Defra and the DAs, this streamlining should make it easier for enforcement bodies to enforce the legislation and for the industry to comply with it. There would be more certainty about meeting regulatory requirements with simpler regulation. Notably, in the aforementioned “pre-consultation” the vast majority of industry respondents made it clear that they would prefer staining provisions to remain in force to deter fraud. In the more recent consultation, although two (out of 5) respondents (in the processing sector) were against staining provisions it is significant that others (especially in the poultry sector) did not respond to press for their removal. It would be clearer to have just a single SI (rather than two) to use for dealing with non-compliance and taking forward prosecutions.

6.24 In addition, we have considered the option of covering the requirements by guidance rather than by legislation. However, this is not favoured as it would require greater supervision/inspections of the at risk material to ensure it was kept separate from material fit for human consumption and other ABPs of a lower risk category in the absence of statutory provisions to give an equivalent level of protection to human and animal health. This would be counter-productive regarding costs.

6.25 Although slaughterhouses, cutting plants, cold stores and game handling establishments would still be required to stain, they would have a new option of being able to use cheaper dyes should these become available, provided they can demonstrate product safety and efficacy to Defra. Similar considerations would apply to ABP premises (collection centres) - the ABPR and ABPEE do not specify which colouring agents collection centres must use to denature Category 2 ABPs.

6.26 Monetised costs and benefits are as follows.

Costs to Government - As for Option 1

Small one-off familiarisation cost (estimated) of £4,400 comprising:

- FSA: £4,000 to **updated** MoC + £180 for VM time (2 hours @ £90.99/hour)
- AHVLA: £180 to update online guidance and write to 210 CCs (2hours of VO time @ £90.99/hour)
- LA: negligible (would just forward FSA guidance to businesses)

a) Costs to Industry

As per Option 1

Small one-off familiarisation cost (estimated) of around **£27,400** comprising:

- Establishments: It is estimated that it would take a typical food business manager 2 hours @ hourly rate of £12 for familiarisation with changes and dissemination of updated information to staff. There are 1034 establishments, giving a total cost of **£24,816**.
- ABP premises: It is estimated that it would take a typical hunt manager 1 hour @ hourly rate of £12 for familiarisation with changes and dissemination of updated information to staff. There are 210 Collection Centres giving a total cost of **£2,520**.

b) Costs to Public

None – as Option 0

c) Benefits to Government

Also, estimated 1% - 2% annual efficiency savings of **£5,000 – £10,000** (say **£7,500** a year) for FSA inspections/ enforcement as updated ABPI would be more coherent and easier to follow for enforcers. (i.e. 1% - 2% of £0.5m). These efficiency savings are greater than for Option 1 as ABP provisions would be in a single piece of legislation rather than two SIs. They would therefore be easier to locate and cross referencing would not be necessary. It would also be clearer which SI should be used for prosecution if necessary.

Efficiency savings to FSA and LA enforcers from greater clarity over which SI to use for prosecution and less likelihood of challenge to enforcement or prosecution.

Negligible efficiency savings to AHVLA which would continue carrying out risk based inspections of CCs still required to stain under ABPR.

Also, as the dye CCs are permitted to use could be covered in guidance or more flexibly worded statute, this would enable Government to respond more quickly, with less staff resources, to industry needs should cheaper effective dyes become available as it would not be necessary to amend legislation.

d) Benefits to Industry

Also, estimated efficiency savings of **£12,400** for establishments as single ABPEE would be more coherent and easier to follow for operators. (Assumes savings of 1 hour a year @ £12/hour i.e. 1 hour per year per establishment = £12,400 for 1,034 establishments).

Also, establishments would have the option of being able to use cheaper dyes should these become available in future.

e) Benefits to Public

As Option 0

Costs and Benefits of Option 3 (at constant prices and present value (1)) £'000

	Tran (2)	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs												
Govt	4.4	-	-	-	-	-	-	-	-	-	-	4.4
Industry	27.4	-	-	-	-	-	-	-	-	-	-	27.4
Total	31.8	-	-	-	-	-	-	-	-	-	-	31.8
PV	31.8	-	-	-	-	-	-	-	-	-	-	31.8
Benefits												
Govt	-	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	75.0
Industry	-	12.4	12.4	12.4	12.4	12.4	12.4	12.4	12.4	12.4	12.4	124.0
Total	-	19.9	19.9	19.9	19.9	19.9	19.9	19.9	19.9	19.9	19.9	199.0
PV	-	19.9	19.2	18.6	17.9	17.3	16.8	16.2	15.6	15.1	14.6	171.3

(1) discounted at 3.5% pa (2) Transitional (one-off) costs incurred in 2013

7. RATIONALE AND EVIDENCE THAT JUSTIFY THE LEVEL OF ANALYSIS USED IN THE IA (PROPORTIONALITY APPROACH)

7.1 The measures outlined in this IA are an exercise in tidying up the law relating to certain aspects of the handling and treatment of animal by-products. The purpose is to make the regulations clearer and more readily understood by both the enforcement agencies and those businesses that are regulated. In order to appraise the costs and benefits of these options it was necessary to estimate various costs. During the latest consultation exercise industry was invited to provide more concrete figures for costs of staining, familiarising staff with any SI changes and purchasing dyes (citing prices). They were also asked to suggest alternative cheaper dyes they might want to use, alternative processes to staining that could provide an equivalent level of protection to human health, and which (if any) ABPs might no longer require staining. Although one respondent referred to staining costs being higher than estimated, notably no respondents provided any alternative figures with supporting evidence for staining with Black PN or Brilliant Black BN under the ABPI. Also suggestions for alternative dyes, processes or partial relaxation of the requirements were not made. Therefore, Government continues to maintain that the measures do not warrant a large investment in terms of research costs to quantify the costs and benefits. In particular the risks of illegal activity taking place and causing food poisoning incidents have not been quantified as this would require a disproportionate effort and cost. Again comments were invited in this area during consultation but no substantive information was forthcoming.

7.2 For Government inspection costs central records are kept of FSA inspection costs under the ABPI. However, these are only split into figures for England/Scotland/Wales and do not show costs against individual provisions in the ABPI. Obtaining this would take a disproportionate amount of staff time as it would involve sorting a very high volume of individual returns. As AHVLA and LAs inspect plants and premises as part of wider visits covering other policy areas it is difficult to obtain precise figures for the inspection and enforcement costs relating specifically to staining. However, reasonable attempts have been made to estimate these figures.

8. ONE-IN TWO-OUT:

8.1 These measures are in scope for OITO as they relate to changes to domestic legislation. For businesses there are some one-off costs (INs) associated with familiarisation with the new rules and then on-going benefits each year from cost savings (benefits or OUTs) associated with the fact that businesses are dealing with simpler, clearer legislation. So long as these annual efficiency gains for businesses exceed the one-off familiarisation costs then the measure will generate a small net 'out'. Our estimated familiarisation costs were not challenged during the consultation.

9. MORATORIUM FOR MICRO BUSINESSES;

The changes are potentially deregulatory for micro businesses. Nearly all 210 Collection Centres are likely to fall under the definition of a “micro business” (a workforce of 10 or fewer full time equivalents) although most Food Business establishments would not. None of the proposed Options would entail significant costs for businesses although there would be small familiarisation costs. There could be net savings for Collection Centres in future if they are permitted to use cheaper dyes (provided they can demonstrate their safety/efficacy) by allowing other dyes under legislation or covering this under guidance instead. Also there should be some efficiency savings as a single ABPEE would be more coherent and easier to follow for operators. A waiver to the moratorium will be sought to permit changes to regulations affecting Collection Centres and the minority of Food Business establishments affected.

10. IMPACT ON SMALL BUSINESSES

As for micro businesses, there would only be relatively small familiarisation costs and possibly net savings if the legislation (for establishments) and guidance/legislation (for Collection Centres) is amended to permit the use of alternative cheaper dyes in future provided their safety/efficacy can be demonstrated. There should be some efficiency savings as a single ABPEE would be more coherent and easier to follow for operators. There would therefore be either “no impact” or a “good impact” on small businesses.

11. COMPETITION

None of the options have an impact on competition. No impact on intra-community trade.

12. DESCRIPTION OF IMPLEMENTATION PLAN

Following consultation, the Government has decided that Option 3 remains the preferred option. Defra will therefore now proceed to amend the ABP (Enforcement) (England) Regulations 2011 (the ABPEE), in the period April - June 2013, to revoke the ABPI Regulations in respect of England, remove duplicated provisions and take over the national staining provisions for Food Business establishments using EU powers. (The ABPEE already covers staining requirements for collection centres.) The Welsh and Scottish Governments will follow suit with similar amendments to their equivalent ABPI legislation, subject to Ministerial agreement. (DARD is also planning to take forward a similar amendment in respect of the equivalent ABPI for NI.) Defra, FSA and the AHVLA will accordingly update their websites and update relevant stakeholders with the changes before the updated legislation comes into force.