

Department for Environment, Food and Rural Affairs

Food origin labelling: enforcement consultation

Annex 1: Regulatory Triage Assessment

For self-certified measures in Defra

Policy teams are advised to submit this assessment to their Better Regulation Business Partner, and, once signed-off, to upload the checklist alongside the relevant entry on SIPI. The assessment will need to be self-certified by Defra's BRU G7 Economist. The RTA fields have been amended to reflect the latest Better Regulation Framework updates which have introduced a de-minimis threshold, and a self-certification and call-in process.

Title of measure: The Country of Origin of the Primary Ingredient (England) Regulations 2020

Lead department/Agency: Defra

Expected date of implementation: 1 April 2020

Origin (domestic or international): Domestic enforcement of EU directly applicable measure

Date of assessment: 29 January 2020

Lead departmental contact: Tom Stafford - policy. Henry Bookham - analyst.

RMT ID / Legislative ID: Defra/FD/010

Rationale for intervention and intended effects

Food labelling regulations are set up to ensure that consumers are not misled, thus reducing information asymmetry between consumers and food producers and retailers. They also have the effect of promoting a level playing field for businesses leading to a more efficient food supply system and, in the EU, free movement of food within the single market.

The 1169/2011 EU Regulation on the provision of food information to consumers sets out both general principles (that food information must not mislead consumers in any respect) and in detail for example that the full ingredients should be listed, that allergens in the ingredients should be highlighted, that a nutrition declaration should be given and where a piece of meat that looks like a cut or joint but is in fact made from two or more pieces of meat the words that need to be used ('formed meat').

Within the 1169/2011 Regulation are articles dealing with when and how origin and provenance of food should be detailed and Article 26.3 deals with the origin or provenance of primary ingredients, where this is different to that of the food itself.

The proposed SI makes enforcement provisions for a directly applicable EU Implementing Regulation, the 2018/775 Regulation on the Origin or Provenance of the Primary Ingredient of Food where this is Different from the Food. We are obliged by the terms of the Withdrawal Agreement to implement directly applicable EU legislation as though we retained EU membership throughout the Transition (formerly Implementation) Period. The EU Implementing Regulation applies from 1st April 2020.

The effect of the 2018/775 Regulation is that, in bringing effect to Article 26.3 of the 1169/2011 Food Information to Consumers Regulation, it makes it a requirement, when the origin of a food is indicated on the food and this is different to the origin of the primary ingredient, to indicate to the consumer that the origin of the ingredient is different, or to indicate the origin itself. The UK has supported these EU legislative proposals because they close a potential loophole in consumer information, where the origin of primary ingredients might have been wrongly presumed by consumers to be the same as the declared origin of the food but was in fact different.

Viable policy options (including alternatives to regulation)

Option 1: Do nothing

Do nothing – the directly applicable European Union regulation (1169/2011 Food Information to Consumers (FIC)) will still apply but cannot be fully enforced in England. This option would mean not meeting our legal obligations under the Withdrawal Agreement, which are that directly applicable EU legislation is implemented in the UK.

This option will be the baseline against which the Regulatory Option will be assessed, even though it is not a viable option for the legal reasons above.

Option 2: Regulatory option

The appropriate domestic enabling regulations are made to permit the enforcement of legislation 2018/775, thus meeting the minimum requirements of the Withdrawal Agreement. This will result in familiarisation costs accruing to local authority enforcement officers in ensuring compliance.

Option 2 is the preferred option.

Description of novel and contentious elements (if any)

There are no novel or contentious elements. The preferred policy option simply extends existing food labelling enforcement measures to this specific offence.

Assessment of impacts on business

Familiarisation costs

None. The preferred option does not change the requirements on businesses, which are defined by the EU Regulation, directly applicable in the UK from April 1st. The proposed legislation only meets our legal requirement under the Withdrawal Agreement to fully implement directly applicable EU legislation during the Transition Period. It does not modify any part of the FIC legislation and, as such, industry are not required to be familiar with it. Businesses are required to be familiar and comply with overarching EU Food Information to Consumers (FIC) legislation 1169/2011. Consequently costs to industry accrue only to EU legislation 1169/2011 and are thus out of scope of this assessment.

Labelling costs

None. As above, labelling costs are consequent to the overarching EU FIC legislation and not to the domestic enabling legislation for 2018/775.

Brief assessment of distributional impacts

There is no mechanism whereby this measure will have distributional impacts.

Brief assessment of small business impacts

There will not be disproportionate impacts on small businesses. While SMEs will be obliged to follow the Regulations, it is in the nature of the requirements that a food will not come into scope unless the business opts to declare the origin of the food; when the origin of food is mandatory because of other legislation, these new rules do not apply. So for all businesses, there is a commercial decision to be made as to whether their food will be in scope.

Brief assessment of wider impacts

The measure will not have wider social, environmental or financial impacts. For businesses that make the commercial decision to bring their products into scope of the new rules, there are no additional enforcement, inspection or registration costs. The only cost would be for non-compliance. Positive impacts of the EU Regulation, in terms of improvements to consumer information, accrue to the EU legislation rather than to the domestic legislation proposed here.

- Accurate labelling of the country of origin of primary ingredients, in addition to compliance with Food Information to Consumers (FIC) 2011, will ensure consumer access to information.
- Business compliance with 2018/775 will prevent consumers from being subjected to incorrect or misleading promotion of products via country of origin labelling in instances where a primary ingredient is not the same as the finished product.
- This benefit has not been quantified due to lack of appropriate data on the perceived value of accurate food labelling and the corresponding impact this has on consumer behaviour.

Summary of monetised impacts

Government familiarisation/enforcement costs

See Table 1: Familiarisation/Enforcement Costs in England in supporting evidence below.

- Constituent Country: England
- Local authorities: 343
- Total familiarisation cost: £12,746
- Equivalent annual cost: £1,533

Rationale for producing an RTA (as opposed to an IA)

Impacts on business, consumers, public bodies are below threshold that require a full Impact Assessment to be conducted.

Departmental sign off

Economist sign off (senior analyst)

Better Regulation Unit Sign off

Confirmation of self-certification by the BRU G7 Economist

Supporting evidence

The policy issue and rationale for government intervention

The EU Implementing Regulation for which this measure provides enforcement is the completion of Article 26.3 of EU Regulation 1169/2011 on the provision of Food Information to Consumers. This article has been supported by the UK because it provides specific protection for consumers from what is seen by some as the misleading practice of making an origin claim on a food where the origin of its main or primary ingredient is different.

Policy objectives and intended effects

The effect of the measure will be to provide the means to enforce the Implementing Regulation, thus meeting our obligations under the Withdrawal Agreement.

Policy options considered, including alternatives to regulation

Option 1: Do nothing

- Do nothing – the directly applicable European Union regulation (1169/2011 Food Information to Consumers (FIC)) will still apply but cannot be fully enforced in England.
- This option will be the baseline against which the Regulatory Option will be assessed.

Option 2: Regulatory option

- The appropriate domestic enabling regulations are made to permit the enforcement of legislation 2018/775. This will result in familiarisation costs accruing to local authority enforcement officers in ensuring compliance.
- Option 2 is the preferred option.

Expected level of business impact

Familiarisation costs

- Businesses are required to be familiar and comply with overarching EU Food Information to Consumers (FIC) legislation 1169/2011. The domestic enabling legislation 2018/775, with which this impact assessment is concerned, does not modify any part of the FIC legislation and, as such, industry are not required to be familiar with it. Consequently, costs to industry accrue only to EU legislation 1169/2011 and are thus out of scope of this assessment.

Labelling costs

- As above, labelling costs are consequent to the overarching EU FIC legislation and not to the domestic enabling legislation for 2018/775.

Government

Familiarisation/enforcement costs

- Local authority enforcement officers will be required to familiarise themselves with domestic legislation 2018/775. It is estimated that it would take one FTE Trading Standards officer 1 hour to read the legislation and understand its implications on businesses¹. The median hourly wage for '*Inspectors of standards and regulations*' (£15.79, as estimated by the ONS) has been used to proxy this cost, and has been uplifted by 30% (to £20.53) to account for non-wage labour costs and overheads, in accordance with the UK standard cost model².
- Based on the number of Full Time Equivalent (FTE) local authority officers with food and beverage responsibilities in England³, and under a central scenario, initial estimates suggest this one-off cost to summate to approximately £13,000⁴. This equates to an equivalent annual cost of approximately £1,500 over a ten year period, as shown in Table 1 below. Across the range of sensitivity tests⁵ analysed, this cost was estimated at between £8,000 and £17,000⁶.
- These enforcement cost estimates are negligible as food officers are expected to be intimately familiar with over-arching EU FIC regulation. Domestic enabling

¹ This is a best estimate based on the deemed complexity of the legislation and the familiarisation times assumed in 1169/2011.

² The [Standard Cost Model](#) (SCM) provides a simplified, consistent method for estimating the administration costs imposed on business by central government. It takes a pragmatic approach to measurement and aims to provide estimates that are consistent across policy areas but which are indicative rather than statistically representative.

³ Assumed to be an approximate average of 1.8 FTE per local authority in England, based on Food Standards LAEMS data 2018-19.

⁴ In order to arrive at this figure, the uplifted hourly wage proxy for local authority food officers (£20.53) has been firstly multiplied by the assumed familiarisation time (1 hour), secondly by the number of FTE food officers per local authority (1.81) and lastly by the number of local authorities in England (343).

⁵ Sensitivity tests have been analysed to capture the upside and downside risk around the assumptions and economic parameters underlying this analysis, including wages, familiarisation labour requirement(s) and the assumed number of FTE food officers per local authority. Sensitivity tests have flexed all contentious assumptions to capture both upside and downside risk. In the absence of sound evidence to suggest otherwise, variables/assumptions have been flexed arbitrarily and for indicative purposes only.

⁶ Lower bound reflects a scenario under which the assumed average number of FTE food officers per local authority falls 33% below our expectation (i.e. to 1.2 FTE rather than 1.8), while the upper bound estimate reflects a scenario under which the assumed average number of FTE food officers per local authority increases 33% (i.e. to 2.4 FTE rather than 1.8).

legislation 2018/775 does not modify any part of this and as such the costs incurred by local authorities are expected to be minimal.

Table 1: Familiarisation/enforcement costs in England

Constituent country	Local authorities	Total familiarisation cost	Equivalent annual cost
England	343	£12,746	£1,533