

Department for Environment, Food and Rural Affairs

Food origin labelling: enforcement

Regulation on the Country of Origin or Place of Provenance of Primary Ingredients where this is different from that of the food itself

March 2020

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Summary

The government is planning to introduce legislation that ensures we can enforce rules on labelling the Country of Origin or Place of Provenance of Primary Ingredients of Food where this is different to that of the food itself. The rules mean that, for example, a cheese labelled as being British needs to make clear on the label if the milk used to make the cheese is not from the UK. The large majority of meat and dairy foods on sale in our major supermarkets already provide this information accurately and honestly. **We are not proposing in this consultation any changes to what the existing rules already require on a food label.**

The EU Implementing Regulation 2018/775 (IR 2018/775) sets these rules. The IR 2018/775 was introduced in May 2018 and the rules it sets will be directly applicable in the UK, and across the EU, from 1 April 2020. This consultation covers simple legislation that makes provision for penalties and enforcement of the IR.

This consultation does not therefore cover already-existing legislation: the (EU) 1169/2011 Regulation on the Provision of Food Information to Consumers; Food Information Regulations 2014 and; the (EU) 2018/775 Implementing Regulation.

When the UK left the EU on 31 January under the Withdrawal Agreement, we entered into a Transition Period during which EU rules continue to apply in the UK, to 31 December 2020. Once this period is over, the UK will in the immediate term incorporate EU law into UK law, so this regulation will continue to apply at that time.

This consultation only addresses the proposed domestic legislation that will provide for penalties and enforcement of the IR 2018/775 in England. Similar consultations are taking place in Scotland, Wales and Northern Ireland.

This consultation is aimed at food enforcement officials, food manufacturers, food retailers, food producers, importers and consumers.

Background

The (EU) 1169/2011 Regulation on the Provision of Food Information to Consumers came into force in 2011 and the parts of it relevant to this consultation applied across the EU from 13 December 2014. They are enforced in England by the Food Information Regulations 2014 and in Scotland, Wales and Northern Ireland by similar legislation. Our proposed approach is a simple amendment to the Food Information Regulations 2014 which brings enforcement of the IR 2018/775 into the existing Food Information to Consumers enforcement regime.

Article 26(3) of the (EU) 1169/2011 Regulation on the Provision of Food Information to Consumers details provisions that where the country of origin or the place of provenance of a food is given and where it is not the same as that of its primary ingredient, the origin or

place of provenance of the primary ingredient must also be given or indicated as being different to that of the food.

The modalities for the application of these rules were recently laid down in the IR 2018/775 published on 28 May 2018 and which apply in the EU from 1 April 2020. These rules address consumers' concerns about knowing more about where their food comes from. For example, bringing an end to the situation where a meat pie or a cheese labelled as 'British' having been produced in the UK, but does not indicate that it is actually made with meat or milk from elsewhere in the world.

In the UK, since a voluntary industry agreement was introduced in 2010, the large majority of meat and dairy foods on sale in our major supermarkets already provide this information accurately and honestly. The IR 2018/775 has helped to close the perceived legal 'loophole' for that minority of foods where the information is not provided clearly. We are proposing to make domestic legislation which enables the IR 2018/775 already in law: the domestic legislation will provide for penalties and enforcement of those rules that the IR sets and which apply in the UK from 1 April 2020.

To this end, we are now consulting on the enforcement measures that will be necessary to provide enforcement bodies, principally Trading Standards Officers attached to Local Authorities with the means to advise on and, where necessary, enforce these rules.

Enforcement

The approach we are proposing matches the enforcement provisions already in place for most non-safety related food labelling offences. Enforcement of food labelling rules that are not safety-related is based around a step by step hierarchy beginning with enforcement officers providing informal advice, moving to issuing 'improvement notices' and the option for businesses to appeal via first tier tribunal. In the final instance and where previous steps have not resulted in a satisfactory outcome of compliance, criminal sanctions are available. We do not plan to introduce an alternative approach and so Local Authority Trading Standards Officers should not need to increase the amount of enforcement activity, which they do on a risk-based approach, as a result of these changes.

Consultation questions

Introduction

1. Would you like your response to be confidential?

Confidentiality and data protection

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

This consultation is being conducted in line with the Cabinet Office “Consultation Principles” and be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>.

If you have any comments or complaints about the consultation process, please address them to:

Consultation Coordinator
Area 6B, 6th Floor
Nobel House
17 Smith Square,
London, SW1P 3JR.

Or email: consultation.coordinator@defra.gov.uk

2. What is your name?
3. What is your email address?
4. Are you an individual or are you responding for an organisation?
5. What is the name of your organisation or business?
6. What is your area of interest for taking part in this consultation?
 - Consumer
 - Food business

- Local authority
- Other

Key questions

The key questions we are asking you are:

7. Do you agree that the new rules, already in place, for declaring the origin of primary ingredients should be enforced in the same way as other non-safety elements of the existing Food Information to Consumers enforcement regime?

8. If not, what alternative enforcement options would you suggest, and why?

9. Do you agree that the costs of this approach are in line with those outlined in the draft Regulatory Triage Assessment (Annex 1)?

10. If not, please provide supporting evidence. If you have suggested an alternative enforcement approach, please provide supporting evidence of the associated costs.

11. Do you agree that the enforcement approach, given that the IR 2018/775 itself is directly applicable in the UK, is the least burdensome approach necessary to properly implement the IR 2018/775?

12. If not, how would your suggested approach result in reduced burdens, while remaining effective in implementing the legislation?

How to respond

We encourage respondents to provide not just their opinions but also the supporting facts and reasoning to inform the evidence base for the development of final proposals. Respondents do not have to answer all questions and can choose those of specific interest. Questions which you do not wish to respond to can be left blank.

Please respond by 20 March 2020.

Please respond through the online survey (Citizen Space):

<https://consult.defra.gov.uk/food/food-origin-labelling-enforcement>

Responses can also be sent by email Labelling@defra.gov.uk or by post, specifying which question(s) you are responding to:

Food Labelling Team
Department for Environment, Food & Rural Affairs
Second Floor
Seacole Block
2 Marsham Street
London
SW1P 4DF

What happens next?

Defra will analyze all responses to this consultation and advise the government of consultees' views. The government will take these views fully into account in making the decision on how to enable the IR 2018/775 in England, having consulted with counterparts in Devolved Administrations.

We will publish on gov.uk a summary of responses and the government's response within 3 months of the consultation closing, in line with current consultation guidance.

Annex 1. Regulatory Triage Assessment Summary

Published as a separate document.



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