

Title: The Meat Products (England) Regulations 2014 IA No: 1499 Lead department or agency: Defra Other departments or agencies:	Impact Assessment (IA)		
	Date: 19/01/2014		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries: Christopher Conder, labelling@defra.gsi.gov.uk			

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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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, Two-Out? Measure qualifies as
£-0.006m	£0	£0	No N/A

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

The Meat Product (England) Regulations (MPR 2003) as they stand will not be compliant with EU Regulation 1169/2011 on the provision of Food Information to Consumers (FIC), and the Government would be risking infraction proceedings if they were not replaced, revoked or amended. Furthermore, the MPR need reviewing to ensure they are proportionate and not unduly burdensome. Government is the only body able to revoke, replace or amend this legislation. We have explored opportunities for revocation of the legislation to make way for industry self-regulation, but the evidence suggests it will be necessary to replace the legislation to ensure that operators are legally obliged to meet the necessary standards.

What are the policy objectives and the intended effects?

- Revoke and replace the existing MPR 2003 with new Regulations that avoid overlap and contradiction with the FIC as well as potential infraction proceedings from the EU.
- Carry forward reserved description provisions and prohibitions on certain carcass parts so that consumers can continue to be protected against products that mislead through lower than expected standards.
- Ensure that enforcement measures are in line with the Government's policy to decriminalise regulatory sanctions if appropriate with the use of improvement notices (with a criminal offence for failure to comply).

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

Baseline option: Do nothing. This is not an acceptable option as it will result in a failure to comply with our EU obligations. It is included as a baseline option, against which all other options are assessed.

Option 1: Revoke the existing MPR 2003 and not replace them, allowing industry to create a voluntary code.

Option 2 (preferred): Replace the existing MPR 2003 to preserve the existing Regulation 4 around reserved descriptions for certain British products (with the removal of 'Melton Mowbray pie'), remove Regulation 5 on certain labelling requirements which will overlap with and go further than new provisions in the European FIC, and carry forward Regulation 6 that prohibits the sale of uncooked meat products containing certain carcass parts. Move from frontline criminal offences to improvement notices in line with the Government's policy to decriminalise regulatory offences if appropriate.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 12/2019					
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: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Revoke the existing MPR and do not replace them. Encourage industry to observe a voluntary code of practice to maintain current standards.

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

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	0	0

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

There are no monetised costs associated with this option.

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

Industry may face costs of setting up a voluntary code. The cost of this set up may be very high because of the nature of the industry (large numbers of businesses, many of which are small).
The government may have to assist industry in setting up a code.
Consumers could face costs associated with lower quality meat ingredients replacing higher quality meat in the meat products market.

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	0

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

There are no monetised benefits associated with this option.

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

The industry may also benefit from ability to mix cheaper meat parts with high quality meat parts thus reducing its cost.

Consumer may benefit from availability of cheaper meat if industry savings are passed on.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

1. The industry may not agree on a code that reflects consumer expectations.
2. There is a risk that consumer confidence is damaged by laxer standards in the meat products market.
3. The voluntary code may leave room for deliberate or accidental contravention.
4. The underlying assumption for this option is that the industry would be willing to adopt a voluntary code.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: 0 Benefits: 0 Net: 0	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Create new legislation that retains those elements of the MPR 2003 that do not replicate, conflict with or unacceptably goldplate European legislation.

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -£0.006m

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	£0.006m	0	£0.006m

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

Enforcers: Local authorities will also need to familiarise themselves with the new enforcement regime. This would cost them around £6,000 in total transition costs.

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	0

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

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

Industry: Potential benefits from the frontline use of improvement notices.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Industry may not support the removal of regulation 5, however this is a necessary change as a result of the implementation of FIC.

The change from the explicit need to include an added ingredient from a different species in the product name, to a position where there is only a need to include such information in the product name based on general provisions in FIC, may lead to confusion, and attract criticism from religious and consumer groups. If this is perceived as weakening protections, consumer confidence in meat products may be affected.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: £0	Benefits: £0	Net: -£0	No	NA

Executive Summary

i) What is the problem?

The existing national regulations on meat products are not fully compliant with the new FIC and other EU legislation.

ii) What solution is proposed?

The preferred option proposes that the MPR 2003 be revoked and replaced by a new version that:

- a) retains the key purpose of the legislation – the legal basis for the reserved descriptions that set minimum meat contents for common products such as sausages and meat pies.
- b) retains prohibitions on certain parts of the carcass in uncooked meat products that could lower quality
- c) does not retain measures on the name of the food that are covered at European level and cannot legally remain.
- d) Uses civil instead of criminal frontline sanctions, in line with the Government's policy to decriminalise regulatory offences in appropriate cases.

iii) Risks

The changes to the MPR will make little practical difference for industry and consumers, as most of what is being lost is covered at European level. There are a couple of potentially contentious changes:

- (a) A small legislative gap meaning that added non-proteins from a different species to the main product may not have to be listed in the name of the food, where they would have been previously (although this will remain in the ingredients list for pre-packed food).
- (b) A risk that the European Commission may consider this legislation, or elements of it, to be a barrier to free trade, and could refuse to allow the legislation at notification stage.

There are also presentational risks if members of the public or media fail to grasp that European legislation replaces some of the elements that are not being carried over into the new MPR, and perceive the changes as weakening of protections.

Table ES1: Summary of costs and benefits (preferred option)

Option 2 (Preferred option)		
Costs	Familiarisation cost (enforcers)	£6,000
Net Present Value		-£6,000

Evidence Base (for summary sheets)

Policy Landscape

1. The Meat Products Regulations (MPR 2003) were made in 2003 in England (and their equivalents shortly afterwards in Scotland, Wales and Northern Ireland). The MPR 2003 serve to:
 - a. ensure that products given the names of staple parts of the British diet such as burgers, sausages, meat pies and pasties (known as the 'reserved descriptions') contain a minimum amount of meat (by the EU definition: skeletal muscles [...] naturally included or adherent tissue, where the total fat and connective tissue content does not exceed the values indicated)
 - b. that a product resembling a cut, joint, slice, portion or carcase of meat contains no added ingredients (with exceptions for expected additions like seasoning) without declaring it in the name of the product; and
 - c. that parts of the carcase such as brains, testicles and udder are not included in uncooked meat products.

All three of these provisions serve to meet consumer expectations, provide minimum compositional standards and ensure consumers are not misled.

2. The MPR 2003 are solely national provisions and do not transpose or enable any European legislation.
3. The MPR 2003 were created to continue existing legislation on reserved descriptions and in response to consumer concern (reflected in the media) that existing food law allowed consumers of meat products to be misled as to the products' true nature by the use of inappropriate names and/or low quality ingredients. The reserved descriptions have been in law since 1984 with similar legislation existing before that. The inclusion of labelling of added ingredients in the name of the food was introduced partly to address the problem encountered by the incorrect labelling of chicken breast with added water and pork or beef hydrolysed proteins, but also to ensure that consumers are informed that other meat ingredients such as fat or gelatine have been used, especially in the sale of non-prepacked foods and in those cases where a consumer may wish to avoid certain meat ingredients on religious grounds. The restrictions on parts of the carcase reflected concerns that meat products containing these could be of unacceptable quality if inexpertly cooked.
4. The MPR 2003 apply to all meat products sold in England, except in relation to the main 'reserved descriptions' provisions, which do not apply to imported products sold legally in their own country.
5. The Food Information for Consumers Regulation 1169/2011 (FIC) was agreed at European level in 2011, to consolidate and update general food and nutrition labelling rules¹. Elements of the FIC duplicate or contradict parts of the MPR 2003. Due to the mismatch between the new EU and current national provisions, it is clear the MPR 2003 must be revoked, replaced or amended. Defra has therefore committed, under the Red Tape Challenge, to replace the MPR 2003 with new Meat Product (England) Regulations, ensuring that any new Regulations are not only compliant with the EU provisions, but also simplified, proportionate and not unnecessarily burdensome.

¹ The FIC is enabled in England by the Food Information (England) Regulations. There is a separate impact assessment for these, which will be published shortly.

6. At present, the MPR 2003 are enforced by frontline criminal sanctions. Given the nature of the requirements and the consequences of a failure to comply with them, we do not think that having frontline criminal offences for contravention of remaining MPR provisions is in line with the Government's policy to decriminalise regulatory offences in appropriate cases.² Criminal legislation will be available to cover more serious fraud offences.

Industry landscape

7. Meat products are a staple part of the English diet. The meat industry in the UK has a total turnover of about £9.6 billion. There are in the region of 100,000 farmers in England producing livestock for meat³, making up in the region of 45% of meat products sold in the UK⁴. The main retailers are supermarkets, with small FBOs being minor players.

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

8. The problem is that the MPR 2003 as they stand will not be compliant with EU law, and the UK Government risks infraction proceedings if they are not revoked, replaced or amended. Furthermore, the MPR are in need of review to ensure they are proportionate and not unduly burdensome. Government is the only body able to revoke, replace or amend the MPR 2003.
9. Below are set out the four main clauses of the MPR and their status since the FIC:
10. **Regulation 4 – The reserved descriptions.** These set minimum meat contents for meat products made and sold in England using specific names (burgers, chopped meat, corned meat, luncheon meat, pies, puddings, pasties, bridies, sausage rolls and sausages). These terms are not regulated in the FIC. Therefore, if we wished to maintain the reserved descriptions for English products, we would have to retain the provisions in this section of the MPR 2003⁵.
11. **Regulation 5 – Added ingredients.** This states that, with regard to a wholemeat ('any meat product which has the appearance of a cut, joint, slice, portion or carcase of meat or of cured meat'), the name of the food must bear an indication of:
- a. any added ingredient of animal origin, unless the meat product contains meat of the species from which that added ingredient is derived; and
 - b. any added ingredient to which the above does not apply, other than an ingredient specified in Schedule 3
12. To summarise, under the MPR 2003, nothing can be added to a whole meat product without it being included in the name of the food, unless it is in the list of exceptions in Schedule 3:
- a. Any additive.

² The Fraud Act 2006 has a number of relevant provisions, including those on 'Fraud by false representation' and 'Fraud by failing to disclose information'. www.legislation.gov.uk/ukpga/2006/35/pdfs/ukpga_20060035_en.pdf

³ 'Structure of the agricultural industry in England and the UK at June' – Results by type of farm – www.gov.uk/government/statistical-data-sets/structure-of-the-agricultural-industry-in-england-and-the-uk-at-june

⁴ Including poultry sales, the turnover of companies processing and preserving meat in England was worth around £9.3 billion in 2009, based on data from the Office for National Statistics Annual Business Survey. With Kantar Worldpanel estimating that UK retail sales of fresh, chilled, and frozen meat and meat products were worth £21.5 billion in the 52 weeks ending 17 February 2013, if we assume that the turnover of meat processing companies in England has remained 'stable' at around £9 billion a year (and if we also 'assume' that livestock farmers in England sell the bulk of their produce to meat processing companies in England), then retail sales of English meat and meat products might account for an estimated 43% of total UK meat and meat product sales.

⁵ If these are retained, the entry on Melton Mowbray pie will be removed as this product now carries Protected Geographical Indication (PGI) status under EU law which sets a meat content minimum of 30%.

- b. Any curing salt.
- c. Any ingredient used solely as a garnish or decorative coating.
- d. Any ingredient (not being an additive) that is added only in order to impart odour or taste or both.
- e. Any salt, herb or spice used as seasoning.
- f. Any sugar that is added only in order to impart a sweet taste.
- g. In the case of meat (whether cooked or uncooked) or cooked cured meat, added water making up not more than 5% of the weight of the product.
- h. In the case of uncooked cured meat, added water making up not more than 10% of the weight of the product.

13. The FIC duplicates elements of regulation 5 of the MPR 2003, and imposes a stricter requirement than MPR 2003 on one point. The FIC states that added water above 5% must be included in the name of the food (as well as in the ingredients list). Any other added ingredients just have to be listed in the ingredients, unless the general provisions of Articles 7 or 17 of FIC would require a reference to the additional ingredient to be included in the name of the food. This is stricter than the added water provision in the MPR 2003 which allowed uncooked cured meats to contain up to 10% water before requiring the added water to be indicated in the name of the product. Under the FIC provisions it will be necessary for added water to be indicated in the name of the uncooked cured meat once the 5% threshold has been exceeded in line with other wholemeat products. National provisions cannot allow something that EU provisions prohibit so the MPR 2003 provisions need to be revoked.

14. The FIC and the MPR 2003 work in different ways – the FIC lists two things (the added water and protein provisions) that must be included in the name of an applicable food, the MPR 2003 say everything added must be included in the name, aside from the exceptions listed.

15. We are legally obliged not to carry over the elements of the MPR 2003 that duplicate or contradict the FIC on added water and proteins from other animal species. We can only impose additional mandatory requirements requiring the name of a meat product to include the name of other additional ingredients if:

(a) the provisions of FIC do not cover this (whether explicitly or by virtue of the application of the general provisions in FIC relating to product names and misleading descriptions);

(b) such a provision can be justified under Article 39 of FIC⁶.

After consideration, there are no clear examples of ingredients that are or could be added to a whole meat for which we believe there is a regulatory need to include in the name of the food by way of an additional national provision. For this reason we propose not to carry any of the remainder of the regulation 5 provisions over into new MPR Regulations.

16. There is one complication where animal products of a species different to the main product are added to the product. In the case of the Annex relating to Article 17.5 of the FIC, it is only specified that ‘proteins’ from other species need to be included in the name of the food. This provision does not go as far as the MPR 2003, which requires, where it applies, any added ingredient of a different animal origin to be included in the name of the food. There was concern that this was a weakening of protections for people avoiding certain species for religious or other reasons, especially with regard to refined animal fat, which does not need

⁶ ‘Member States may [...] adopt measures requiring additional mandatory particulars for specific types or categories of foods, justified on grounds of at least one of the following:

(a) the protection of public health;

(b) the protection of consumers;

(c) the prevention of fraud;

(d) the protection of industrial and commercial property rights, indications of provenance, registered designations of origin and the prevention of unfair competition.’

to specify a species. However, we are seeking clarity from the Commission to ensure that non-protein added ingredients of a different species added to a wholemeat would need to be indicated in the name of the food (including its species of origin) to avoid being misleading. Article 7 of the FIC states that 'Food information shall not be misleading, particularly [...] as to the characteristics of the food and, in particular, as to its nature, identity, properties, [and] composition', and Article 17 which states that 'The name of the food shall be its legal name. In the absence of such a name, the name of the food shall be its customary name, or, if there is no customary name or the customary name is not used, a descriptive name of the food shall be provided.' The UK Government is in the process of clarifying this matter with the Commission.

17. Regulation 6 – Parts of the carcass that cannot be used in uncooked meat products.

This regulation ensures that the following are not used in uncooked meat products: brains, feet, large intestine and small intestine (with the exception for sausage skin), lungs, oesophagus, rectum, spinal cord, spleen, stomach, testicles and udder. This regulation arguably serves to maintain certain quality levels for products that will be 'handcooked' to varying standards, although it does prevent the full use in meat products of those parts of the carcass detailed above.

18. Regulation 7 – Enforcement measures. Regulation 7 of the MPR 2003 provides that contravention of those Regulations constitutes a criminal offence. Traditionally, enforcement of the MPR has been done on a risk based approach. Where there is not a significant risk to human health, enforcement officers' work with businesses in their area to ensure food information complies with the requirements. They do this through inspection visits based on a risk as well as through collaborative relationships under the primary and home authority principles⁷. Enforcement action is only pursued where informal action has been unsuccessful.

19. The approach to sanctions taken in the new draft SI is taking this concept further. The first formal action under the draft Regulations would be the issue of an improvement notice. If the FBO fails to comply with that notice then they are guilty of a criminal offence. That is not to say that in cases where fraud is involved that a criminal prosecution will not be brought against a FBO, but this would be under other legislation.

What are the policy objectives and the intended effects?

20. The policy objectives and intended effects are to:

- a. Revoke or replace the existing MPR 2003, so as to bring the national legislation into line with the FIC provisions. This will serve to remove duplication, give clarity to FBOs as to their legislative obligations and avoid potential infraction proceedings from the EU.
- b. Ensure that consumers can continue to be protected against meat products that do not comply with expected standards.
- c. Ensure that enforcement measures are proportionate and in line with Government policy to decriminalise regulatory offences, where appropriate, by moving from frontline criminal offences to improvement notices backed up with a criminal offence where there is a failure to comply with an improvement notice.

⁷ These principles allow FBOs working across more than one enforcement area to seek consistency by dealing with just one 'primary' or 'home' authority. Enforcement officers in an area will normally have to consult with the primary or home authority before taking any action. www.bis.gov.uk/brdo/primary-authority/about-pa; www.food.gov.uk/multimedia/pdfs/codeofpracticeeng.pdf

21. Note: This IA refers to the England MPR. Scotland, Wales and Northern Ireland each has its own MPR in line with England's, which it will need to revoke, replace or amend in light of the FIC. We will work with these administrations with the aim of maintaining consistent regulation across the UK.

What policy options have been considered, including alternatives to legislation?

22. **Baseline option: Do nothing.** This is not an acceptable option as it will cause confusion with regard to compliance and risk infringement proceedings from the EU. It is included as a baseline option, against which all other options are assessed. The costs and benefits of options 1 and 2 are measured against this baseline option.
23. **Option 1:** Revoke the existing MPR, do not replace them and allow the industry to create a voluntary code of practice covering those elements of the MPR it wishes to retain. This may reduce legislative burdens on business. However, if sought by industry, getting agreement for a voluntary code could prove expensive to industry and may still be ineffective given the sheer number of separate FBOs involved. An actual or perceived reduction in compliance could undermine consumer confidence – whether this is as a result of industry not developing a voluntary agreement, or from an agreement only providing weaker guidelines than current regulations. Furthermore, having no legal regulations could lead to lack of clarity for FBOs and courts. (It is not clear at this stage precisely what form a voluntary agreement might take).
24. **Option 2 (preferred):** Replace the existing MPR 2003 with the new MPR 2014 to carry forward the existing regulation 4, remove regulation 5 and carry forward regulation 6. Move from frontline criminal offences to improvement notices with a backstop criminal offence for a failure to comply with an improvement notice in line with the Government's decriminalisation policy. This option aims to balance the benefits of deregulation with protections for consumers and clarity for business. It would:
- a. maintain the reserved descriptions as they are so as to continue to protect consumers from buying reserved description meat products with a low meat content
 - b. maintain the restrictions on including certain parts of the carcass (brains, feet, large intestine, small intestine, lungs, oesophagus, rectum, spinal cord, spleen, stomach, testicles and udder) sold in uncooked products to protect consumers from the inclusion of lower quality parts of the carcass that they would not expect to be present.
 - c. Move from frontline criminal offences to improvement notice backed up by a criminal offence for failing to comply with an improvement notice to ensure that sanctions are proportionate and consistent with the sanctions being included in recent and upcoming Defra food legislation.

Specific and general provisions relating to the name of the food and misleading food information in FIC would address issues with added ingredients.

Transitional Period

25. An amended or replaced MPR will need to be fully in force by 13th December 2014, when the relevant provisions of the FIC will apply. The provisions of the MPR 2003 will be revoked immediately upon the MPR 2014 coming into force.

Approach to small businesses

26. An exemption for small businesses has not been included in the current MPR 2003. We do not propose that this should change in an amended or replacement regulation, as a significant proportion of businesses in this sector are small to medium size enterprises (SMEs). To introduce an exemption would undermine the provisions and reduce the

likelihood of achieving the identified benefits. It would also risk damaging the reputation of smaller businesses if they were perceived as being allowed to produce lower quality products. Table 1 shows the significant presence of SMEs in the food and drink sector.

27. In 2010, 224,780 businesses were operating in the food and drink manufacturing, wholesaling, retailing or catering sectors in the UK of which over 99 per cent were identified as having SME status. Of the total FBOs in the UK, around 83 per cent operate in England; 184, 905 are micro to medium in size, equivalent to 99 per cent of the total for England.⁸

Approach to gold-plating

28. If we pursue the preferred approach, this will constitute a consolidation of domestic and European regulation. There is no gold-plating.

Table 1: Food Business Operator numbers operating in 2010, by country and firm size

	Micro	Small	Medium	Large	TOTAL
England	163,535	21,370	2,065	540	187,510
Wales	10,035	1,295	80	25	11,435
Scotland	16,175	2,650	280	50	19,155
NI	5,010	1,450	190	30	6,680
UK	194,755	26,765	2,615	645	224,780

Costs and Benefits

29. All costs and benefits regard the period after the main elements of the FIC have come into force in December 2014.

Baseline Option: Do nothing. The FIC will still come into force and the MPR 2003 will not be revoked. The European FIC will take precedence to the national MPR 2003 where there is contradiction.

30. What this looks like:

- a. Reserved descriptions remain in place
- b. Anything added to a meat product that has the appearance of a cut/joint/slice etc. of meat must be included in the name of the food, unless it is exempted by the relevant Schedule. This duplicates elements of the FIC.
- c. The allowance of up to 10% water in uncooked cured meat without the inclusion of this in the name would be contrary to the FIC regulations, which limits this to 5%. It would put the UK in breach of its EU legal obligations.
- d. The need for any added ingredients from a different animal species to be included in the name of the food would overlap with the provisions of the FIC.
- e. Bans on the sale of certain parts of the carcass in uncooked meat products will remain in place.
- f. Existing criminal sanctions for non-compliance will remain.

31. The costs and benefits of other options are assessed relative to this baseline option.

Note: This Impact Assessment costs only the impacts of changing the MPR 2003, and does not consider costs coming from the regulations in the FIC, such as the changes uncooked cured meat

⁸ All figures refer to bespoke analysis from the 2011 ONS Business Demography publication. The analysis was taken from all businesses that are active within the specified year.

producers may have to make with regard to revised added water rules, as these impacts are attributable to the FIC⁹.

Option 1: Revoke the MPR 2003, not replace it and allow the industry the opportunity to create a voluntary code of practice if they wish.

32. What this looks like:

- a. Reserved descriptions removed. If there is a voluntary agreement, industry may or may not choose to set 'reserved description'-type standards.
- b. No specific legislation concerning the name of whole meat foods with added ingredients, beyond the FIC and other general food law. If there is a voluntary agreement, industry may or may not choose to set such a standard.
- c. Bans on the sale of uncooked meat products containing certain parts of the carcass will be removed. If there is voluntary agreement, industry may or may not choose to set such a standard (but under EU hygiene and TSE rules it would still face restrictions on the use of certain parts of the carcass).
- d. Scrapping the reserved descriptions would mean that consumers would no longer be legally protected against certain English-made staple products (e.g. burgers, sausages etc) containing a lower amount of 'meat' (by the EU definition) than they have come to expect, or containing parts of the carcass banned under the MPR 2003, unless the industry voluntarily agreed to continue with current practice.

33. The costs and benefits of voluntary industry action can be highly uncertain. An example of a successful voluntary industry code is the Lion Quality mark. This was set up by the British Egg Industry Council in 1998 using £4 million industry money for the code of practice, and £4 million for marketing.¹⁰ There are of course uncertainties with respect to regulations – the cost and benefits of a regulation depend on how market participants react to new requirements. These uncertainties are amplified in the case of voluntary action, as compliance may be less than comprehensive, in particular in this case as it is not clear what form voluntary action might take. The costs and benefits stated below need to bear such uncertainty in mind.

Costs:

To industry:

34. If they decided to develop voluntary guidelines, industry would incur costs (currently **non-monetised**) through the time and effort of setting up a voluntary agreement, agreeing objectives and monitoring compliance. Costs would be incurred by using resources that could be used for actual compliance or other activities. The costs of setting up a voluntary agreement in this case could be particularly large because of the nature of the food manufacture industry – a large number of firms operating, many of whom are SMEs, making a diverse array of products across the whole price and quality spectrum.
35. Compliance costs to industry would depend on what form any voluntary agreement took. If the agreement continued the use of reserved descriptions (and continued to refrain from using certain parts of the carcass in uncooked meat products), then the compliance costs

⁹ The FIC Impact Assessment is at http://ec.europa.eu/governance/impact/ia_carried_out/cia_2008_en.htm under 'Proposal for a Regulation on the provision of food information to consumers'.

¹⁰ More information available at www.lioneggs.co.uk/files/lioneggs/pdfs/marketing.pdf

would be similar to option 2, and not different from the baseline option (which also retains these elements).

To Government:

36. Government may incur some costs in facilitating industry in setting up any voluntary agreement, as well as monitoring to see whether it is effective. These costs cannot be monetised at this stage.

To consumers:

37. Consumers may be supplied with lower quality meat products if the reserved descriptions and associated restrictions on carcass meat use are not adequately enforced by the industry. Producers of better-quality products may be disadvantaged if the market is not able to differentiate between those that are compliant with the current reserved descriptions and those that are not.

Benefits:

To industry:

38. Industry would have the opportunity to influence any code to ensure it contains provisions that minimise unnecessary burdens.

39. If the agreement failed to maintain reserved descriptions and restrictions on parts of the carcass used, then industry may make some savings relative to the baseline by using lower quality and cheaper meat in meat products.

To consumers:

40. Relative to the baseline, there are unlikely to be significant benefits to consumers as a result of this approach. If lower quality meat products do enter the market as a result of the discontinuation of reserved descriptions, this may lower prices for consumers if savings are passed through.

Assumptions:

41. The extent and effectiveness of the code are uncertain. Given the nature of the industry as described above, there is a question of how effective any voluntary approach could be.

Risks:

42. The following are risks:

- a. That consumers feel less confident in their purchases of meat products, if this option is perceived as weakening protections. There could be wider repercussions for the food industry in terms of consumer confidence in meat products.
- b. That industry may not support a code that meets consumer expectations.
- c. That a voluntary code may not be as clear-cut as regulation, leading to more accidental and deliberate contravention.

Note: The costs and benefits of this option are highly dependent upon the nature of any industry agreement, as well as whether they choose to pursue that approach at all. This implies a lot of

uncertainty around the relative costs and benefits associated with this option but the consultation period will be used to test these assumptions.

Consultation question 1: Is it correct to conclude that a voluntary agreement within industry would not be able to effectively maintain the standards for meat products that consumers expect? Can you provide evidence to better monetise the costs and benefits of a voluntary agreement?

Option 2 (preferred): Replace the existing MPR 2003 to preserve the existing Regulation 4, remove regulation 5 and preserve the existing regulation 6. Move from frontline criminal offences to improvement notices backed up with a criminal offence for a failure to comply with an improvement notice in line with the Government's policy on decriminalising regulatory offences in appropriate cases.

43. What this looks like:

- a. Reserved descriptions (regulation 4) remain in place

Consultation question 2: Do you agree that we should maintain the reserved descriptions? Can you provide evidence, preferably monetised, of the benefits they bring to industry and consumers?

- b. Added proteins and water regulated with regard to the name of the food by Article 17 of the FIC, the naming of products with other added ingredients are covered by the general food labelling regulations in Article 7.
- c. The levels of added water that can be added to a wholemeat product before its indication in the name of the food set by the FIC – with a lower threshold for uncooked cured meats (5%) compared to currently (10%).
- d. Added ingredients from different species beyond proteins need to be included in the name of the food under general FIC provisions in Articles 7 and 17 (and must still be listed in the ingredients).
- e. The ban on the sale of uncooked meat products containing certain parts of the carcass remains in place.

Consultation question 3: Do you agree that there is a need to retain the prohibitions on brains, feet, large intestine, lungs, oesophagus, rectum, small intestine, spinal cord, spleen, stomach, testicles and udder from any mammalian species in uncooked UK meat products? Are there reasons for this unique to the UK or England? What would be the economic benefits?

- f. Existing frontline criminal sanctions for non-compliance will be replaced by improvement notices backed up with a criminal offence for failure to comply with an improvement notice.

Consultation question 4: Do you consider the General Regulatory Chamber of the First-tier Tribunal to be appropriate for these appeals? Please give reasons for your response.

(Asked on behalf of the Tribunal Procedure Committee)

Consultation question 5: Do you consider that the rules of the General Regulatory Chamber of the First-tier Tribunal will suit the handling of these appeals against Improvement Notices for the Food Information Regulations 2013? If not, why not? Please give the specific rule changes that you propose and your reasons for doing so.

(Asked on behalf of the Tribunal Procedure Committee)

Consultation question 6: In what way would an Improvement Notice approach benefit your business and/or the sector in general? Can you quantify any savings that may be realised?

(Asked on behalf of the Tribunal Procedure Committee)

Consultation question 7: In what way would an Improvement Notice approach benefit enforcement officers in general? Can you quantify any savings that may be realised?

(Asked on behalf of the Tribunal Procedure Committee)

Consultation question 8: Paragraph 6 of the SI allows no less than 14 days for a FBO to take the required measures to comply with these regulations following an improvement notice for failure to do so. Is this minimum amount of time appropriate?

Costs:

To industry:

44. The changes which will need to be made by industry are solely as result of the directly applicable EU FIC. The changes being made to the MPR 2003 as a result of the FIC are therefore purely regulatory consolidations. Industry which is compliant with FIC and with the remaining parts of MPR will not need to change any practices nor become familiar with any new rules. There are therefore no additional costs to industry as a result of these proposals.
45. The retaining of reserved descriptions would entail no change to the baseline, therefore there are no additional costs from retaining regulation 4.

Consultation question 10: Is the meat content in products from the reserved descriptions list/ quality of products from the UK significantly higher than those sourced from outside the UK?

Consultation question 11: We have rewritten the notes under the reserved description table in Schedule 1 on calculating meat content (starting 'In relation to items 4, 5 and 6'...) to reflect current practice in a clearer manner. Do you agree with this revised note and, if not, please provide reasons and/or suggestions for alternative text?

46. Regulation 5: The introduction of FIC means that certain products will need to be re-labelled. For example, products that had previously included between 5% and 10% added water will now have to include a 'with added water' description in the product name unless they choose to reformulate their product. Such changes are not assessed here as they are the result of the introduction of the directly applicable FIC rather than changes to Meat Product Regulations.
47. Regulation 6: The retaining of the ban on the inclusion of certain parts of the carcass in uncooked meat products would entail no change to the baseline, therefore there are no additional costs from retaining regulation 6.

To Government:

48. Local authorities will need to become familiar with the updated Regulations for enforcement purposes. It is estimated that it would take one Trading Standards officer, one hour to read and become familiar with the revised Regulations and disseminate them to the staff. The average hourly wage rate for *Inspectors of standards and regulations* is assumed to be £18.01 per hour¹¹ (including being uprated by 30% to account for non-wage labour costs and overheads, in accordance with the standard cost model¹²). The total one-off cost to the 353 local authorities is estimated at approximately £6,000.

To consumers:

49. There are no costs to consumers in this option (relative to the baseline)..

Benefits:**To industry:**

50. Relative to the baseline option, the only regulatory change to be assessed is the move to a different enforcement regime. The broad benefit to the industry in moving from the current frontline criminal sanctions regime to a new regime is that in the proposed regime, enforcement will be carried out by way of an improvement notice, followed up by a criminal offence in cases where businesses continue to ignore the notice. This may give FBOs a better chance to put things right before the matter comes before a criminal court.

51. The industry may benefit from reduced costs resulting from fewer prosecutions in a system where improvement notice will precede any legal prosecution. In an ordinary case, criminal prosecution will result only if the business in receipt of the improvement notice does not comply with the notice either from the outset or if, following an unsuccessful appeal against the notice to the First-tier Tribunal, they continue to fail to comply with the notice.

To Government:

52. There is a potential benefit to Government in terms of moving from the current frontline criminal sanctions regime to the new improvement notice regime. It is anticipated that any gains would originate from reduced court costs as the number of hearings will be reduced as issues will be resolved through issuing improvement notices, and the time saved to enforcement officers in resolving the issues more quickly instead of preparing for a court case. However, this benefit is likely to be relatively small given that very few criminal prosecutions are believed to have been taken in connection with the contravention of the MPR 2003.

To consumers:

53. There are no benefits to consumer in this option (relative to the baseline).

Assumptions:

54. Regulation 6 of the MPR 2003 is not subject to a mutual recognition clause and therefore should technically apply to uncooked meat products imported into England, as well as those produced here. However, this is inconsistent with European regulations on free movement of

¹¹ 2011 Annual survey of Hours and Earnings

¹² www.berr.gov.uk/files/file44503.pdf, www.statistics.gov.uk/downloads/theme_labour/ASHE-2009/2009_occ4.pdf

goods. A new MPR regulation would need to apply a mutual recognition clause on this regulation.

55. There are no costs related to this change, as prohibitions on carcase parts for imported meat products are not thought to be enforced in current practice.

Consultation question 12: Is it correct that prohibitions on carcase parts for imported meat products have not been enforced under MPR 2003? Is it correct to therefore not include any costs or benefits from the inclusion of the mutual recognition clause in the new draft MPR?

Risks:

56. The risks are:

- a. That industry and other interested parties may not support the removal of regulation 5; however this is a necessary change as a result of the FIC.
- b. That the change from having a provisions in the MPR requiring the product name to include any added ingredients from a different animal species (under the current MPR 2003) to having no provision in the new MPR 2014 and relying on the provisions under the FIC to regulate what is needed by way of extra information in the name of the food may attract criticism from religious and other consumer groups.
- c. Consumers feel less confident in their purchases of meat products, if this option is perceived as weakening protections.
- d. The European Commission may consider this legislation, or elements of it, to be a barrier to free trade and could refuse to allow the legislation at notification stage.

One-in-Two-Out (OITO):

57. The proposed regulation bears a small monetised cost arising from the need for local authorities to familiarise themselves with the new regulations. This cost is not offset in monetary terms by any quantifiable benefit. There are no costs or benefits to businesses from the change in regulations which are not a result of the directly applicable EU Food Information to Consumers Regulation. There may be some benefits from a simpler enforcement regime, however these are not monetised. Aside from the revised enforcement regime the proposed changes are purely consolidative, and there are therefore no impacts on business and the changes are outside the scope of OITO.

Implementation

58. The preferred option would be implemented via a new Statutory Instrument (SI), revoking the Meat Products (England) Regulations 2003 and the Meat Products (England) (Amendment) Regulations 2008.

Conclusion

59. The proposed regulations rationalise the regulatory landscape as one of the regulations (regulation 5) in the MPR 2003 will be revoked. Reserved description and uncooked meat products will continue to be regulated. For local authorities, there are some monetary costs of familiarisation associated with this regulation. As a result of this regulatory change the UK government will avoid infraction procedures from EU as provisions that duplicate or are inconsistent with EU provisions are revoked. The move from frontline criminal offences to improvement notices may also be beneficial for the industry as it represents lighter-touch

enforcement. Consultation on this document will invite industry and consumers to comment on the preferred option.

60. Government is the only body able to revoke, replace or amend the MPR 2003. Whilst we have looked at the option of a full revocation of the legislation to make way for industry self-regulation, we believe it will be necessary for Government to continue to legislate, as with most other food labelling measures, to ensure all producers meet the standards needed to avoid misleading the consumer as to the true nature of meat products.

Annex A – Summary table

	Reg 4 (reserved descriptions)	Reg 5 (added ingredients)	Reg 6 (banned parts of the carcass)	Reg 7 (enforcement)
Baseline	Remain in place. The inclusion of 'Melton Mowbray pie' will technically infringe on EU territory, especially if (as intended) a new meat minimum is agreed for the Melton Mowbray PGI.	Duplicate and overlap with elements of FIC.	Remain in place.	Criminal sanctions remain in place.
Option 1	<p>Replaced by industry standards.</p> <p>Costs: Potential reduction in standards for consumers (or appearance as such).</p> <p>Benefits: Potential cost savings to business.</p>	<p>Removed and not replaced. Most likely not covered in voluntary standards. Elements on added water and proteins and other misleading practices covered by FIC.</p> <p>Costs: None.</p> <p>Benefits: In line with EU requirements.</p>	<p>Removed. Unclear whether voluntary standards would replace them. Some elements covered by EU provisions.</p> <p>Costs: Potential for poorer quality meat products.</p> <p>Benefits: Potential for cost savings to business, and then on to consumers.</p>	<p>Criminal sanctions removed. General food labelling laws apply. Industry 'sanctions' potentially in place to ensure compliance.</p> <p>Costs: Potential for reduced compliance due to less stringent deterrents, leading to poorer quality of meat products. Costs to industry of monitoring standards and imposing sanctions.</p> <p>Benefits: Potential savings to industry with better targeted industry sanctions.</p>
Option 2 (preferred)	<p>Remain in place (with the exception of 'Melton Mowbray pie')</p> <p>Costs: £0.22m</p>	<p>Removed. FIC provisions apply instead.</p> <p>Costs: None.</p> <p>Benefits: None.</p>	<p>Remain in place.</p> <p>Costs: None.</p> <p>Benefits: None.</p>	<p>Frontline criminal offences replaced by improvement notices.</p> <p>Costs: None known.</p>

	<p>(across all 4 regulations).</p> <p>Benefits: None.</p>			<p>Benefits: Potential reduced costs and the time saved to businesses in resolving issues more quickly. Reduced court costs to Government. Time potentially saved by enforcement officers in resolving the issues more quickly.</p>
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