



Department
for Environment
Food & Rural Affairs

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Dairy Industry:

Producer Organisations, the reporting of milk volumes and other EU Dairy Package options.

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1. Purpose of the document and questions

1.1 The purpose of this consultation is to seek your views on proposals for the implementation in England of EU [Regulation 261/2012](#) (the EU Regulation) which is directly applicable in all Member States.

1.2 The EU Regulation enables milk producers to set up Producer Organisations (POs) and seek recognition for them to undertake specified activities; provides for certain reporting requirements on raw milk production; and includes other provisions which are optional for Member States to implement if desirable.

1.3 The consultation applies to implementation in England only. However, we recognise that the dairy industry operates across borders in the UK, particularly in Great Britain. The impact assessment that forms part of this consultation is therefore UK-wide. It provides background information on the current situation in the UK, a detailed analysis of the problem under consideration, the policy options considered and the Government's preference for implementation in England.

1.4 Similar consultations are being conducted in Scotland, Wales and Northern Ireland.

Summary of our preferred implementation and questions

1.5 We invite you to consider the questions below which are put into context by the short summaries that explain our preferred outcomes. More detail is provided in the impact assessment section of this consultation.

1.6 The EU Regulation permits producers to set up dairy POs that can jointly negotiate contract terms, including price, for the delivery of raw milk to processors as long as they do not exceed more than 3.5% of EU production or 33% of national production by volume. It also requires from 1 April 2015 the monthly reporting by first purchasers (processors) of the volume of raw milk collected.

1.7 In addition, the EU Regulation includes certain optional provisions that allow Member States to decide whether to: make it compulsory for dairy processors (first purchasers) to have and/or offer written contracts with dairy producers; enable the recognition of interbranch organisations; or adopt binding rules to regulate the supply of cheeses with protected designations of origin (PDO) and protected geographical indications (PGI) where requested.

1.8 Throughout the European negotiation of these regulations, and in reaching our preferred policy option, we sought the views of the industry's key representatives. In any cases where you have reason to make comments upon or challenge anything in this consultation or the associated impact assessment, please provide relevant views, evidence and explanation so that proper consideration of alternatives may be given.

Producer Organisations (POs)

1.9 As required by the EU Regulation, we will be putting in place procedures for the formal recognition of POs formed by dairy farmers. Once formally recognised, POs would be permitted to negotiate contracts including the price for milk in accordance with the EU Regulation.

1.10 In accordance with the EU Regulation, POs must inform the competent authority prior to initiating each negotiation with purchasers and once a year (by 31 January) notify the actual volumes delivered in the previous calendar year in accordance with contracts negotiated by the PO. This enables the competent authorities to consider whether the negotiation could result in the exclusion of competition or serious damage to SME processors and, if so, to decide that the negotiation should be reopened or not take place at all.

1.11 As required by the EU Regulation, the competent authority will monitor the activity of POs on a risk basis to ensure that POs meet their obligations in accordance with the EU Regulation. Where appropriate the competent authority will take enforcement action. Failing to respect the requirements of recognition may result in withdrawal of recognition and competition law penalties may be applied in the event of any breaches of competition rules.

1.12 The EU Regulation allows Member States to set a minimum number of members and/or a minimum volume of raw milk that must be represented in order for a PO to be formally recognised.

1.13 Whilst we do not wish to add barriers to the formation of producer organisations, there may be a scale below which they can have no real impact for their members.

Question 1: In order for a Producer Organisation to be able to seek recognition should the minimum number of members required for a Producer Organisation be set at 10 dairy farmers?

Question 2: In order for a Producer Organisation to be able to seek recognition should the minimum total volume of raw milk produced annually by its members be set at 6 million litres per annum?

1.14 The Rural Payments Agency will be the competent authority for the recognition of POs operating and headquartered in the UK.

Milk volume reporting from 1 April 2015

1.15 From 1 April 2015 the EU Regulation requires all first purchasers of raw milk to report to the competent authority each month the total volume of milk they purchase. The EU Regulation provides that the European Commission may adopt further implementing acts which would lay down more detailed rules on the content, format and timing of these declarations and measures relating to the notifications to be made by the Member States to the Commission. We understand that the Commission will deal with the implementing regulations closer to the date of commencement.

1.16 There is no change to broader statistical reporting requirements for Eurostat which will continue. Eurostat data includes each Member State's total production volume of cows' milk and is used for the assessment of the scale of POs negotiations.

Compulsory contracts / industry code of practice on contracts

1.17 Following the agreement by industry on 31 August 2012 and publication on 21 September 2012 of their code of best practice on contractual relationships, our preference is to allow sufficient time for it to take effect, rather than immediately implementing compulsory contracts that cover less detail and are more restrictive than the code. We do not therefore propose to introduce legislation to make contracts compulsory at this stage.

1.18 We reserve the right to review, including with industry, the situation of contractual relationships, and if necessary to reconsider the introduction of legislation on contracts if after a reasonable time the desired changes in contractual relationships have not been achieved by the industry.

Question 3: Do you agree on this basis that the industry code of practice should be given time to take effect and therefore that contracts should not be made compulsory at this time?

Interbranch Organisations (IBOs)

1.19 We do not propose to make it possible for IBOs to seek recognition for a number of reasons. Similar organisations that include membership spread along the length of the supply already exist. They and other existing organisations carry out several of the possible functions of IBOs which are [set out in the EU Regulation](#). Formal recognition and monitoring of IBOs would require additional administrative burdens and therefore costs to both industry and the competent authority. We are not aware of any interest in the formal recognition of IBOs.

1.20 We therefore prefer that the industry continues to work together through existing organisations and other voluntary and industry-wide initiatives such as Dairy2020 and the Dairy Roadmap to ensure the best possible coordination of all existing work and information from across the supply chain.

Question 4: Do you agree that we should not make it possible for the formal recognition of Interbranch Organisations?

Control of supply of PDO/PGI cheeses

1.21 The UK Government is opposed to any group of producers having the power to manage the supply of goods onto the market, such as cheeses benefitting from a protected designation of origin (PDO) or a protected geographical indication (PGI). This was the formal UK position during the negotiation of the new EU Regulation. Allowing such controls carries a high risk of distorting the market and creating barriers to new entrants. We therefore do not propose to lay down any binding rules that would permit the regulation of supply of cheese benefitting from a PDO or PGI.

Question 5: Do you agree that we should not lay down any binding rules allowing for the control of supply of PDO/PGI cheeses?

Evidence / assumptions

1.22 If any of the data or assumptions are inaccurate to the degree that there is a significant impact on the overall analysis, the balance of costs and benefits, and in particular to the decision on the preferred option, then evidence and explanation should be provided to us to demonstrate this.

1.23 Each of the sections of the impact assessment in which we have made assumptions are listed at section 2.7 of this document.

Question 6: Do you have any comments on any of the assumptions and do you expect any significant impact on the price paid by consumers or received by producers under the proposals?

2. The consultation process

Who will be affected by these proposals?

2.1 This consultation document is directed at anyone interested in the way activities that take place in the dairy sector are regulated. This consultation is of particular interest to you if you are involved in:-

- producing milk for sale to a processor; or
- purchasing milk for processing; or
- engaged in activities associated with the production, sale or processing of milk; or
- engaged in activities for the benefit of the dairy industry.

2.2 We expect this consultation to be of interest to business, operators and individuals that are part of the dairy supply chain. Many other people and groups are also concerned with the British dairy industry and may therefore have an interest in these proposals.

Timing and duration of this consultation

2.3 This consultation lasts for 4 (four) weeks plus additional time to allow for the Christmas and New Year period. It ends on **Monday 21 January 2013**. We cannot guarantee considering any responses received after that date.

2.4 We believe this is sufficient time because the Government and representatives from across the dairy industry have been in close liaison throughout the development of the EU Regulation since 2009.

2.5 In line with the Government's policy of openness, the information you submit may be made available to other parties. If you do not consent to this, you must clearly request that your response be treated as confidential. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. You should be aware

that there may be circumstances in which we will be required to communicate this information to third parties on request in order to comply with our obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Glossary & definitions

2.6 Below are some commonly used terms and acronyms used throughout this document along with a brief explanation and a link to greater detail and definition:

Acronym/abbreviation	Full term (and hyperlink if relevant)
PO	Producer Organisation as defined in EU law: Regulation 1234/2007 as amended by Regulation 261/2012
IBO	Interbranch Organisation as defined in EU law: Regulation 1234/2007 as amended by Regulation 261/2012
PDO	Protected Designation of Origin
PGI	Protected Geographical Indication
SME	Small to Medium sized Enterprises as defined in EU law.
Eurostat	The European Commission's statistical service.
Commission Regulations	<p>Two Commission Regulations have been adopted in connection with the EU Regulation 261/2012:</p> <ul style="list-style-type: none"> • Implementing Regulation 511/2012 • Delegated Regulation 880/2012

Cross-reference to impact assessment and other further detail.

2.7 The following table explains where greater detail on each aspect of this consultation can be found in the associated impact assessment documents, including also the assumptions that we have made in making the impact assessment and upon which we ask for any comments at section 1.22 of this consultation document.

Section of consultation		Key section(s) of Impact Assessment
1.9 to 1.14 Questions 1 and 2	Producer Organisation (PO)	Paragraphs 25 to 33 Paragraphs 36 to 86 <i>Key assumptions used in connection with POs are detailed at paragraphs 39, 44-49, 76-81, and in Annex A.</i>
1.15 to 1.16	Milk volume reporting from 1.4.2015	Paragraphs 34 to 35
1.17 to 1.18 Question 3	Compulsory Contracts / industry Code of Practice on contracts	Paragraphs 90 to 125 <i>Key assumptions used in connection with POs are detailed at paragraphs 102-118 and 125.</i>
1.19 to 1.20 Question 4	Interbranch Organisations (IBO)	Paragraph 88 and Annex G
1.21 Question 5	Control of supply of cheeses with Protected Designation of Origin (PDO) / Protected Geographical Indication (PGI) status	Paragraph 88 and Annex G