

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION/DOCUMENTS WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND THE WINDSOR FRAMEWORK

Document C(2023)8519 :

COMMISSION DELEGATED REGULATION (EU) 2024/1141 amending Annexes II and III to Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards specific hygiene requirements for certain meat, fishery products, dairy products and eggs

Submitted by the Food Standards Agency, 11 October 2024.

SUBJECT MATTER

1. Regulation (EC) No 853/2004 lays down specific hygiene requirements for Food Business Operators (FBO) manufacturing and handling certain Products of Animal Origin (POAO) such as meat, eggs, fish and dairy. This Regulation was retained when the United Kingdom (UK) exited the European Union (EU) and became assimilated law in Great Britain (GB) on 1 January 2024.
2. It supplements the more general rules laid down in Regulation (EC) No 852/2004 by defining a common framework for the production of food of animal origin. Annex II of this Regulation sets out specific requirements to allow the traceability of certain POAO, including identification markings and food chain information. Annex III of this Regulation lays down specific hygiene requirements for the production of POAO including meat, live bivalve molluscs, fishery products, milk and eggs.
3. Commission Delegated Regulation (EU) 2024/1141 amends the Annexes to Regulation (EC) 853/2004 as regards specific hygiene requirements for certain meat, fishery products, dairy products, and eggs based on feedback from practical implementation, and scientific advice. The Delegated Regulation was adopted by the Commission on 14 December 2023 and came in force on 9 May 2024.

Meat

4. In relation to meat, there are changes to the form of identification marks, including special identification marks laid down for the control of certain animal diseases and requirements for Food Chain Information to be provided where farmed game and other animals slaughtered at the place of origin are presented at approved game handling establishments. The existing requirement to provide an additional declaration is removed, thereby reducing the administrative burden on food businesses.
5. There are changes to rules on slaughterhouses including clarification that live animals can be moved directly to another approved slaughterhouse and new conditions for the use of mobile 'partial' slaughterhouses which are associated with an approved slaughterhouse at a permanent site to avoid possible animal welfare issues during transport of animals in remote areas. These changes also broaden the species of animals eligible for non-emergency slaughter at the holding of provenance to improve animal welfare and farmer safety.

6. The regulation also provides additional flexibility to food business operators who wish to transport meat above the required temperature and includes specific detail on how to record the surface temperature of such meat.
7. Finally, these changes introduce a new definition and specific requirements for the dry-ageing of beef.

Other amendments (fishery products, raw milk and colostrum and dairy products, and eggs)

8. For fishery products there is a new legal provision permitting fish to be held at the technologically required temperature for the purpose of slicing for up to 96 hours, allowing fresh fishery products to be frozen below the temperature of melting ice or the partial thawing of frozen fish.
9. The regulation also provides clarification on how to demonstrate that pasteurisation of non-bovine milk (or raw milk separated in different fractions) has been successful.
10. For eggs, the regulation permits businesses to add odours to eggs, as long as the purpose is not to hide a pre-existing odour.

SCRUTINY HISTORY

11. There is no relevant scrutiny history.

MINISTERIAL RESPONSIBILITY

12. The Secretary of State for Health and Social Care has responsibility for this area of food law in England.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

13. This is a devolved area of policy. The responsible Government department is the Food Standards Agency in England, Northern Ireland and Wales, and Food Standards Scotland (FSS) in Scotland in conjunction with Scottish Government Ministers, Welsh Government Ministers and Northern Ireland Executive Ministers who all have an interest in food and feed safety and hygiene law.
14. This area sits within scope of the Food and Feed Safety and Hygiene provisional common framework. All colleagues across the nations have been consulted in the preparation of this Explanatory Memorandum (EM).

LEGAL AND PROCEDURAL ISSUES

15. There are no legal or procedural issues. This is notification of the adoption of a Delegated Act amending an EU Regulation by the European Commission.

Legal Base

16. The amendments to Annexes II and III to Regulation (EC) No 853/2004 are made by a Delegated Regulation adopted pursuant to Article 10(1), second subparagraph, points (a), (c), (d), (e) and (f), of Regulation (EC) No 853/2004.

Voting procedure

17. The Delegated Act was adopted in line with EU procedures for delegated acts, including consultation with the Expert Group, a four-week consultation period, and scrutiny by the European Parliament and Council of the EU

Timetable for adoption and implementation

18. The Delegated Act was adopted on 14 December 2023 by the Commission and published in the Official Journal of the European Union (OJEU) on 19 April 2024. The Regulation entered into force on 9 May 2024. Whilst most of the changes require implementation from this date, two have transitional periods: changes to the requirements for the dry-ageing of meat will come into force on 9 November 2024, and changes to the identification marks will come into force on 31 December 2028.

POLICY AND LEGAL IMPLICATIONS

19. The Food Hygiene Regulations (Northern Ireland) 2006 provide for the enforcement of Regulation (EC) 853/2004 in Northern Ireland. No additional national legislation is required to execute or enforce these amendments.
20. This regulation is disapplied by Annex 1 of Regulation (EU) 2023/1231. This means that retail goods can move from Great Britain to Northern Ireland via the Northern Ireland Retail Movement Scheme (NIRMS) without having to meet these new standards. Movements under the scheme will therefore be entirely unaffected. We believe that the impact to trade is minimal and where NIRMS does not apply, can be addressed through targeted communications to GB industry and relevant competent authorities.
21. In line with the Government's commitment to ensuring Northern Ireland traders have unfettered access to the rest of the UK internal market, these measures will not have any impact on the movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain. Such goods will also continue to benefit from the market access principles set out in the United Kingdom Internal Market Act 2020 and enjoy unfettered access.
22. Based on current industry knowledge and the fact that some of these changes come with a transition period, the impact on NI food business operators (FBOs) is expected to be of low significance.

Meat

23. The majority of the meat-related changes represent flexibilities which NI food business operators (FBOs) could avail of, based on commercial decisions. The FSA will engage with NI industry around the possibility of making use of these flexibilities.
24. Two of the changes introduce new requirements. The first concerns dry-ageing of meat, which introduces more specific requirements for FBOs and include keeping the meat at a

quite low temperature and with a set maximum humidity and airflow. There is a transition period of six months (to 9 November 2024). The FSA is using this time to better understand the impacts on NI FBOs and on the movement of non-retail goods, raise awareness of the new requirements, and ensure they are implemented in the least burdensome way. We do not expect the changes to the processes used by the businesses to be significant, however we do not know at present how many businesses are affected as the activity does not require FSA approval or authorisation.

25. The second requirement relates to the transport of carcass meat. Current legislation requires that carcass meat should reach a certain temperature before transport and flexibilities provided for under this Regulation allow FBOs to transport carcass meat before it reaches the required temperature of 7° subject to strict conditions. There are further flexibilities allowing meat, which is to be transported above temperature, to be collected from up to three approved slaughterhouses or from one cold store. GB FBOs will need to comply with the new method of validating temperature to deliver these products in NI, but at present we know of only two FBOs in GB that move products to NI in this way. There are currently no NI FBOs that dispatch carcasses above the required temperature.
26. Under this new regulation, Northern Ireland FBOs can continue to apply an identification mark to POAO with an 'EC' suffix to signify that a product has been produced in an establishment approved in accordance with Regulation (EC) 853/2004 until the end of the transition period on the 31 December 2028, after which time the suffix will need to change to 'EU'. Examples of these types of products include minced meat, sausages, burgers, egg products, fishery products, shellfish. This is typically applied to wrapping, packaging, or labelling which contains, or is attached to the POAO. The FSA will work with impacted stakeholders to make them aware of the requirement and support them through the change, noting the long transition period.

Other amendments (fishery products, raw milk and colostrum and dairy products, and eggs)

27. The change provided by the Regulation for fishery products will have minimal impact on NI FBOs as this change simply provides a legislative underpinning of current industry guidance.
28. The changes to raw milk and colostrum and dairy products clarify what already happens in practice so should have no impact on NI FBOs.
29. The amendment to eggs will have minimal impact on NI FBOs as most eggs produced in NI are Class A eggs that are not permitted to have a 'foreign smell'. Thus, we expect the impact of this Regulation to be minimal.

Communications to stakeholders

30. Details of all the changes to the Regulation and their transition period have been communicated to FBOs, DAERA, and district councils in NI on 10 June 2024. Information on the changes to the transport of carcasses and their temperature requirements, and the dry-ageing of meat requirements will be made publicly available to GB businesses.

Plan for adopting the changes in GB

31. The FSA will continue to work with other nations to discuss and assess whether equivalent legislation should be adopted in GB as part of a wider regulatory review.
32. Some of these amendments are likely to be in line with FSA's historical position and will benefit industry, for example, flexible carcasses transportation options and movement of animals between slaughterhouses in exceptional circumstances. However, some changes may not be relevant e.g. changes to the identification mark.
33. There are no plans to adopt the amendments for fishery products, raw milk and colostrum and dairy products in GB legislation because:
 - a. Any fish processing establishment undertaking freezing/thawing to a technically required temperature for slicing should already have this step included in their Hazard Analysis and Critical Control Point (HACCP) plan. These establishments will be approved by the appropriate Local Authority. Industry guidance (the 'European Guide to Good Practice for Smoked and/or Salted and/or Marinated Fish') agreed by the UK whilst a Member State of the EU, provides best practice for any FBOs wanting to undertake this activity.
 - b. Information on the verification of pasteurisation of milk can be found in scientific reports and international standards and is common practice.
34. With regards to the amendment on eggs, relevant industry stakeholders have not raised this issue with the FSA. We currently do not anticipate a demand to provide for the intentional addition of odours to eggs in GB legislation.

CONSULTATION

35. The European Commission conducted a public consultation on the draft Regulation on 27 April 2023 via its consultation portal for a period of 4 weeks, and 161 responses were received, one of which (anonymous) was from the UK. The responses can be viewed on the Commission's website at [Food hygiene – products of animal origin \(updated rules\) \(europa.eu\)](https://ec.europa.eu/food/food/hygiene_products/updated_rules/). This followed an expert group meeting and private stakeholders' organisations consultation within the framework of the Advisory Group on the Food Chain and Animal and Public Health.
36. As this does not require changes to domestic legislation, no consultation with external stakeholders is required. The FSA will work with FBOs as normal to notify and support them to adopt any changes as relevant. Should some of these changes be considered for adoption in GB as part of a wider regulatory change, a formal consultation will be carried out.

FINANCIAL IMPLICATIONS

37. As two of the meat-related changes are new requirements to existing businesses, FBOs and enforcing authorities in NI will need to be made aware of them. The new requirement for the dry-ageing of meat (see para 24) could be easy to implement for some FBOs but not so easy for others, depending on their current arrangements and the cost of what they will need to buy to comply. However, no formal risk assessment has been carried out. FSA is using the six-month transition period for implementation of this requirement

to raise awareness among NI FBOs and enforcement authorities to gather information on numbers, volume and obtain a clearer idea of the impact of the change. The transition period should enable businesses that need to make changes to their processes to reach compliance gradually, minimising the impact of the change.

38. The change relating to the transport of carcasses and temperature requirements is considered minimal and we do not believe the implementation costs for food businesses to be significant. In addition, there will be familiarisation costs and new costs to implement these requirements which will fall on District Councils, DAERA and FBOs, which we expect to be minimal given the change will be simple to understand. There will also be familiarisation costs for GB FBOs that transport carcass meat above the required temperature to NI. Given there are currently only two GB FBOs that do this, we expect familiarisation costs to be minimal.
39. If NI FBOs were to avail of some of the newly introduced meat-related flexibilities, there could be a cost burden for the relevant competent authorities relating to extra costs associated with Official Veterinarian inspection at mobile partial slaughterhouses and presence at on-farm slaughter.
40. This will be the second identification mark change to impact NI approved establishments as they have already changed ID marks on packaging from "UK/EC" to "UK (NI) EC" following EU Exit, on 1 January 2021. For some NI food businesses, it will mean a second round of costs due to the need to change artwork for all labels and packaging bearing an ID mark. However, most food operators now produce their own artwork and can alter them relatively easily and the extended transition period (to 31 December 2028) will allow time for industry to use up existing stocks of packaging and plan for the change with minimal disruption. We therefore expect the only additional cost to be for a change in artwork, and therefore the impact of the change to be minimal.
41. There are no anticipated financial impacts on NI FBOs for the changes relating to fishery and raw milk and colostrum and dairy products, however no formal impact assessment has been undertaken. NI FBOs that choose to intentionally add odours to eggs may face initial familiarisation costs.



Andrew Gwynne MP

Parliamentary Under-Secretary of State for Public Health and Prevention

Department of Health and Social Care