

<b>Title:</b> The Products containing Meat etc. (England) Regulations 2014 <b>IA No:</b> 1499  <b>Lead department or agency:</b> Department For Environment, Food and Rural Affairs <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 25/11/2014		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Christopher Conder, labelling@defra.gsi.gov.uk			

**Summary: Intervention and Options** **RPC Opinion:** RPC Opinion Status

**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, Measure qualifies as Two-Out?	
£-0.042m	£0	£0	No	N/A

**What is the problem under consideration? Why is government intervention necessary?**  
 The Meat Product (England) Regulations (MPR 2003) enforce quality standards for products containing meat. The MPR 2003 as they stand will not be compliant with EU Regulation 1169/2011 on the provision of food information to consumers (EU FIC), and the Government would be risking infraction proceedings if they were not replaced, revoked or amended. Furthermore, they need review 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 total revocation of the legislation to make way for industry self-regulation, but consultation responses suggest it will be necessary to replace the legislation to ensure that food business operators (FBOs) are legally obliged to meet the necessary standards. The Products containing Meat etc. (England) Regulations 2014 (PMR 2014) will replace the MPR 2003.

**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 EU FIC and 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 with these).

**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 (chosen): Replace the existing MPR 2003 with the PMR 2014 to preserve the existing Regulation 4 around reserved descriptions for certain English products, remove Regulation 5 on certain labelling requirements which will overlap with and go further than new provisions in EU 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.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b>		<b>Non-traded:</b>		

*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: George Eustice Date: 12th November 2014

# Summary: Analysis & Evidence

# Policy Option 1

**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 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £-0.042m

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value)	Cost
Low	Optional	1	Optional		Optional	Optional
High	Optional		Optional		Optional	Optional
Best Estimate	£0.042m		0		£0.042m	

### 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 £7,000.

Justice system: Defra incur a charge of £35,000 (an intra-public sector transfer) in order to set up and run a new First Tier Tribunal for these Regulations.

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

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value)	Benefit
Low	Optional		Optional		Optional	Optional
High	Optional		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'

Overlap and contradiction with the new EU FIC is avoided, which provides more certainty for businesses.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

There are no significant risks to the analysis. The only significant policy risk is that consumers or representative groups misinterpret some of the details of these changes and do not realise that EU FIC covers the areas that have not been carried over from the MPR 2003 to the PMR 2014. This risk is mitigated by clear Defra guidance on the requirements of EU FIC.

## 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

# Executive Summary

## i) What is the problem?

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

## ii) What solution is proposed?

The MPR 2003 are to be revoked and replaced by new PMR 2014 that:

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

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

<b>Option 1 (Preferred option)</b>		
Costs	First tier tribunal (Government)	£35,000
Costs	Familiarisation cost (enforcers)	£7,000
<b>Net Present Value</b>		<b>-£42,000</b>

# 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 2004 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' certain values)
  - b. that a product resembling a cut, joint, slice, portion or carcass 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 carcass such as brains, testicles and udder are not included in uncooked products containing meat.

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. This also ensures 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 carcass 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 directly applicable Food Information for Consumers Regulation 1169/2011 (FIC) was agreed at European level in 2011, to consolidate and update general food and nutrition labelling rules<sup>1</sup>. Elements of EU 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 and replaced or amended. Defra has therefore committed, under the Red Tape Challenge, to replace the MPR 2003 with new regulations, ensuring that these are not only compliant with the EU provisions, but also simplified, proportionate and not unnecessarily burdensome.
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

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<sup>1</sup> EU FIC is enabled in England by the Food Information (England) Regulations. There is a separate impact assessment for these, which can be found at [www.legislation.gov.uk/ukia/2014/228/pdfs/ukia\\_20140228\\_en.pdf](http://www.legislation.gov.uk/ukia/2014/228/pdfs/ukia_20140228_en.pdf).

having frontline criminal offences for contravention of these provisions is in line with the Government's policy to decriminalise regulatory offences in appropriate cases. Criminal legislation will be available to cover more serious fraud offences.<sup>2</sup>

## Industry landscape

7. Meat products are a staple part of the English diet. The meat processing industry in the UK had a total turnover of about £16.4 billion in 2012. There are in the region of 100,000 farmers and agricultural workers in England producing livestock for meat<sup>3</sup>, making up in the region of 45% of meat products sold in the UK<sup>4</sup>. The main retailers are supermarkets, with small FBOs being minor players.

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

8. The underlying rationale for regulation of meat products is that of asymmetric information. Consumers are not reasonably able to determine the quality of what they are consuming. Regulatory intervention determines a minimum level of quality that must be met, and therefore gives consumers some confidence in what they are purchasing and eating.
9. The specific reason that the legislation requires amendment 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 and replaced or amended. Furthermore, the MPR 2003 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.
10. Below are set out the four main clauses of the MPR 2003 and their status since EU FIC:
11. **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 EU FIC so must be present in national regulation to retain them<sup>5</sup>.
12. **Regulation 5 – Added ingredients.** This states that, with regard to any meat product which has the appearance of a cut, joint, slice, portion or carcass of meat or of cured meat ('wholemeats'), 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

13. To summarise, under the MPR 2003, nothing can be added to a 'wholemeat' product without it being included in the name of the food, unless it is in the following list of exceptions in Schedule 3:

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<sup>2</sup> 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](http://www.legislation.gov.uk/ukpga/2006/35/pdfs/ukpga_20060035_en.pdf)

<sup>3</sup> '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](http://www.gov.uk/government/statistical-data-sets/structure-of-the-agricultural-industry-in-england-and-the-uk-at-june)

<sup>4</sup> 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.

<sup>5</sup> The entry on Melton Mowbray pie has not been carried over into the PMR 2014 as this product now carries Protected Geographical Indication (PGI) status under EU law which sets a meat content minimum of 30%.

- a. Any additive.
- 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.

14. EU FIC duplicates elements of regulation 5 of the MPR 2003, and imposes a stricter requirement than MPR 2003 on one point. It states that added water above 5% must be included in the name of the food (as well as in the ingredients list). 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 directly applicable EU 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. Any other added ingredients just have to be listed in the ingredients, unless the general provisions of Articles 7 or 17 of EU FIC would require a reference to the additional ingredient to be included in the name of the food. National provisions **cannot** allow something that EU provisions prohibit, so the MPR 2003 provisions on added ingredients and the added water threshold need to be revoked as a result of the introduction of EU FIC.

15. EU FIC and the MPR 2003 work in different ways – EU 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.

16. We are legally obliged not to carry over the elements of the MPR 2003 that duplicate or contradict EU 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 EU FIC do not cover this (whether explicitly or by virtue of the application of the general provisions in EU FIC relating to product names and misleading descriptions);

(b) such a provision can be justified under Article 39 of EU FIC<sup>6</sup>.

After consideration, there are no clear examples of ingredients that are or could be added to a wholemeat for which we believe there is a regulatory need to include in the name of the food by way of an additional national provision. The consultation provided no evidence to the contrary. For this reason we are not carrying any of the remainder of the regulation 5 provisions over into the new PMR 2014.

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<sup>6</sup> '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.'

17. 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 EU 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.
18. It is important that protection is retained for people avoiding certain species for religious or other reasons, especially with regard to refined animal fat, which does not need to specify a species. While the FIC is different we believe 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 EU 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, in the absence of a legal or customary name, 'a descriptive name of the food shall be provided.'
19. **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 serves to maintain certain quality levels for products that will be 'handcooked' to varying standards.
20. **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 2003 has been done on a risk based approach. Enforcement officers work with businesses in their area to ensure food information complies with the requirements. They do this through inspection visits based on risk as well as through collaborative relationships under the primary and home authority principles<sup>7</sup>. Formal enforcement action is only pursued where informal action has been unsuccessful.
21. 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 it is 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?**

22. The policy objectives and intended effects are to:
- a. Revoke and replace the existing MPR 2003 with the PMR 2014, so as to bring the national legislation into line with EU 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

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<sup>7</sup> 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.

<https://www.gov.uk/government/organisations/better-regulation-delivery-office>; [www.food.gov.uk/multimedia/pdfs/codeofpracticeeng.pdf](https://www.food.gov.uk/multimedia/pdfs/codeofpracticeeng.pdf)

frontline criminal offences to improvement notices backed up with a criminal offence where there is a failure to comply with an improvement notice.

23. Note: This IA refers to the England MPR 2003. Scotland, Wales and Northern Ireland each has its own Meat Products Regulations in line with England's, which they will be replacing in light of EU FIC. We are working with these administrations with the aim of maintaining consistent regulation across the UK.

### Consultation responses

24. A six-week consultation was held from 23 January to 6 March 2014 which sought the views of stakeholders on the new Regulations, consultation stage Impact Assessment and draft guidance. A total of 12 organisations responded. Six of these were representative organisations for the food industry: a large FBO, a food R&D company, a Halal group, two from within the Trading Standards Institute, and a large consumer organisation.

25. None of the responses supported Option 1 (relying on a voluntary agreement). Which? thought that 'a voluntary agreement in industry is not appropriate for this issue and would not be able to effectively maintain the standards for meat products that consumers expect', with the British Retail Consortium noting that 'following the development of a number of voluntary agreements in a number of areas in the past few years, retailers are strongly questioning whether this is an appropriate route to deliver outcomes. Many have started limiting their support to voluntary agreements.'

26. All nine of the respondents who specifically answered the questions posed gave unqualified support to the retention of the reserved descriptions. Views on the prohibited parts and the enforcement regime were more mixed, but those who opposed the proposals did not present evidence to support a change to the draft regulations.

27. Two consultation responses did indicate that the name 'Meat Products Regulation' creates confusion as it does not define 'meat products' in the same way as in European legislation<sup>8</sup>. We have therefore used the title 'Products containing Meat etc.' for the new PMR 2014.

28. No comments were received on the economic calculations contained in the draft Impact Assessment despite a specific question asking if these were realistic.

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

29. The consultation impact assessment included a voluntary agreement option. This did not appear likely to meet the objective and intended outcome. As reported above, there was no support for this option in the consultation. This final Impact Assessment includes only an assessment of the chosen option, relative to the baseline option ('Do Nothing'). An assessment of the voluntary agreement option can be found in the consultation Impact Assessment.<sup>9</sup>

30. **Baseline option: Do nothing.** This is not an acceptable option as it will cause confusion with regard to compliance and risk infraction proceedings from the EU. It is included as a baseline option, against which the other options are assessed. The costs and benefits of options 1 and 2 are measured against this baseline option.

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<sup>8</sup> 'Skeletal muscles of mammalian and bird species recognised as fit for human consumption with naturally included or adherent tissue, where the total fat and connective tissue content does not exceed the values indicated' in the accompanying table. From Directive 2000/13/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (a), as amended by Commission Directive 2001/101/EC(b), and now contained in EU FIC.

<sup>9</sup> [https://consult.defra.gov.uk/food/meat-products-england-regulations-2014/supporting\\_documents/MPR%20Impact%20Assessment.pdf](https://consult.defra.gov.uk/food/meat-products-england-regulations-2014/supporting_documents/MPR%20Impact%20Assessment.pdf)

31. **Option 1 (chosen):** Replace the existing MPR 2003 with the new PMR 2014 to carry forward the provisions of the existing regulations 4 and 6, without retaining the provisions of regulation 5. 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 balances the benefits of deregulation with protections for consumers and clarity for business. It will:

- 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 EU FIC would address issues with added ingredients.

### Transitional Period

32. The PMR 2014 will need to be fully in force by 13th December 2014, when the relevant provisions of EU FIC will apply. The provisions of the MPR 2003 will be revoked immediately upon the PMR 2014 coming into force.

### Approach to small businesses

33. An exemption for small businesses is not included in the current MPR 2003. This will not change in the PMR 2014, 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. It is important to note that there are no new costs to business (including small businesses) from this legislative change – the directly applicable FIC has been responsible for changes, but the exercise here is a consolidation to ensure that the current MPR 2003 do not contradict the FIC.

34. Table 1 shows the significant presence of SMEs in the food and drink sector. In 2012, around 161,000 businesses were operating in the food and drink manufacturing, wholesaling, retailing or catering sectors in England of which well over 99 per cent were identified as having SME status. The preponderance of SMEs is less in food and drink manufacture, where they make up closer to 97% of businesses.

**Table 1: Food Business Operator numbers operating in 2012, by employment size band<sup>10</sup>**

	Total	0-9	10-49	50-249	250+
Food & Drink Manufacture	6,150	4,320	1,205	455	170
Food & Drink Retail	24,130	22,470	1,540	100	20
Food & Drink Services (Catering)	117,125	100,420	15,350	1,105	250
Food & Drink Wholesale	13,690	11,455	1,865	315	55
<b>Total</b>	<b>161,095</b>	<b>138,665</b>	<b>19,960</b>	<b>1,975</b>	<b>495</b>

<sup>10</sup> ONS business demography, 2012

35. In the specific meat production<sup>11</sup> sub-sector of the food and drink industry, ONS figures<sup>12</sup> for 2013 show that large companies make up around 4% of the business population (40 out of 980), although these figures are for the UK as a whole rather than England.

## Approach to gold-plating

36. This will constitute a consolidation of existing domestic and new European regulation. There is no gold-plating.

## Costs and Benefits

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

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

39. 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 EU 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 EU FIC regulations, which limits this to 5%. It would put the UK in breach of its EU legal obligations. This change will already be coming into force as a result of the directly applicable FIC. Leaving the MPR 2003 in place would contradict the EU FIC and lead to uncertainty for business.
- 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 EU 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.

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

41. **Note:** This Impact Assessment costs only the impacts of changing the MPR 2003, and does not consider costs coming from the regulations in the directly applicable EU FIC, such as the changes uncooked cured meat producers may have to make with regard to revised added water rules, as these impacts are attributable to EU FIC<sup>13</sup>.

**Option 1 (chosen): Replace the existing MPR 2003 with the PMR 2014 to carry over the provisions of the existing Regulations 4 and 6, without carrying over the provisions of regulation 5. Move from frontline criminal offences to improvement notices backed up with a**

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<sup>11</sup> Standard Industrial Classifications 10.11 – 10.13

<sup>12</sup> UK Business: Activity, Size, and Location 2013

<sup>13</sup> Footnote 1 contains a link to the Impact Assessment for the Food Information (England) Regulations. However, the nature of directly applicable measures means that the change in added water rules did not require assessment as part of that Impact Assessment (see Better regulation manual 2.4.27 and 2.4.28). However, the European Commission did prepare an initial impact assessment for the FIC. The EU FIC Impact Assessment is at [http://ec.europa.eu/governance/impact/ia\\_carried\\_out/cia\\_2008\\_en.htm](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'.

**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.**

42. What this looks like:

- a. Reserved descriptions (regulation 4) remain in place
- b. Added proteins and water regulated with regard to the name of the food by Article 17 of EU 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 EU FIC rather than the MPR 2003 – with a lower threshold for uncooked cured meats (5%) compared to currently (10%). This change has been a result of EU FIC rather than the regulatory change being addressed here – the exercise here is changing the MPR 2003 in order to ensure domestic legislation does not contradict European legislation. This therefore removes uncertainty for businesses as legislation will not be conflicting.
- d. The presence of added proteins from other species must be indicated in the name of all products containing meat.
- e. Added ingredients from different species beyond proteins need to be included in the name of the food under general EU FIC provisions in Articles 7 and 17 (and must still be listed in the ingredients).
- f. The ban on the sale of uncooked meat products containing certain parts of the carcass (Regulation 6) remains in place.
- g. 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.

**Costs:**

**To industry:**

43. 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 EU FIC are therefore purely regulatory consolidations. Industry which is compliant with EU FIC and with the provisions of the MPR 2003 being carried over into the PMR 2014 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.
44. The retaining of reserved descriptions would entail no change to the baseline, therefore there are no additional costs from retaining regulation 4.
45. Regulation 5: The introduction of the directly applicable EU 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. Furthermore, non-'wholemeat' products containing added proteins from other species will now need to contain and indication of the proteins in the name of the food. Such changes are not assessed here as they are the result of the introduction of the directly applicable EU FIC rather than the PMR 2014 (see footnote 13 for further information).
46. 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.

47. A revised enforcement regime – from civil to criminal sanctions – will not have any effect on businesses operating legally. Only businesses in breach of rules will be subject to the revised regime.
48. Retaining Regulations 4 and 6 will continue to address the underlying rationale for intervention which brought about the original MPR – to serve to protect the quality of products containing meat and avoid misleading consumers.

**To Government:**

49. Local authorities will need to become familiar with the updated Regulations for enforcement purposes. They will have already become familiar with EU FIC. The additional changes here are therefore minor – old Regulation 5 is now superseded by EU FIC (with which they are already familiar), and that the new Regulations will be enforced via civil rather than criminal sanctions (as is the case already for a number of other food labelling regulations. 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 £19.98 per hour<sup>14</sup> (including being uprated by 30% to account for non-wage labour costs and overheads, in accordance with the standard cost model<sup>15</sup>). The total one-off cost to the 353 local authorities is estimated at approximately £7,000.
50. There will be some costs to the justice system. The move to civil sanctions necessitates the setting up of a First Tier Tribunal (FTT) to hear any appeals against Improvement Notices. The initial set up and running costs of this is estimated at approximately £35,000. This cost will be borne by Defra. It is difficult to estimate whether there would be any ongoing costs to the justice system because: (a) it is not clear how many cases might come to the tribunal; and (b) any tribunal costs may replace court costs from the previous system. Food Standards Agency data for 2011 shows that there were 67 food standards prosecutions, of which 12 were for food labelling. Given the number of food labelling, it is likely that very few, if any, of these were related to meat products. Informal consultation with enforcement officers did not identify any known instances of prosecutions as a result of the MPR.
51. Given the above, we do not estimate any additional ongoing costs to the justice system.

**To consumers:**

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

**Benefits:**

**To industry:**

Relative to the baseline option, the only regulatory change to be assessed is the move to a different enforcement regime. Only businesses operating illegally will be subject to changes in the enforcement regime. Even for businesses operating illegally, there may be a benefit in moving from the current frontline criminal sanctions regime to a new regime as 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 reduce costs and give such FBOs a better chance to put things right before the matter comes before a criminal court.

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<sup>14</sup> 2013 Annual survey of Hours and Earnings, <http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2013-provisional-results/stb-ashe-statistical-bulletin-2013.html>

<sup>15</sup> <http://webarchive.nationalarchives.gov.uk/20100115234728/http://www.berr.gov.uk/files/file44505.pdf>

**To Government:**

53. We have included the initial setup/running costs of the First Tier Tribunal in the above estimates. We do not monetise any benefits to Government from the revised enforcement regime – for the same reasons as we do not estimate any ongoing costs of the revised enforcement regime.

**To consumers:**

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

**Assumptions:**

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

56. 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.

**Risks:**

57. The only significant policy risk is that consumers or representative groups misinterpret some of the details of these changes and do not realise that EU FIC covers the areas that have not been carried over from the MPR 2003 to the PMR 2014. There are no significant risks to the analysis.

**One-in-Two-Out (OITO):**

58. There are no costs or benefits to businesses from the change in regulations which are not a result of the directly applicable EU FIC. 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**

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

**Conclusion**

60. Under the PMR 2014, the reserved descriptions and prohibited carcase parts in uncooked products containing meat will continue to be regulated. To rationalise the regulatory landscape in light of EU FIC, one of the regulations (regulation 5) in the MPR 2003 will be revoked. For local authorities, there are some monetary costs of familiarisation associated

with this regulation. There will be some initial costs of a First Tier Tribunal. 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 be beneficial as it represents lighter-touch enforcement.

61. Government is the only body able to revoke and replace 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 products containing meat.

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 as a new meat minimum of 30% is agreed for the Melton Mowbray PGI.	Duplicate and contradict elements of EU FIC.	Remain in place.	Criminal sanctions remain in place.
Option 1 (chosen)	Remain in place (with the exception of 'Melton Mowbray pie')  Costs: None.  Benefits: None.	Removed. EU FIC provisions apply instead.  Costs: None.  Benefits: None.	Remain in place.  Costs: None.  Benefits: None.	Frontline criminal offences replaced by improvement notices.  Costs: £0.042m (to Government)  Benefits: None identified.