

EXPLANATORY MEMORANDUM TO
THE FOOD SAFETY AND HYGIENE (ENGLAND) (AMENDMENT)
REGULATIONS

2016 No. 868

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Food Standards Agency (FSA) and laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Food Safety and Hygiene (England) Regulations 2013 (SI 2013 No. 2996) to provide for the execution and enforcement in England of the provisions of Commission Implementing Regulation (EU) No. 2015/1375 (“the new Commission Regulation”), laying down the specific rules on official controls for *Trichinella* in meat. *Trichinella* is a genus of parasites that can cause serious disease and sometimes death in humans and is mainly caused by eating undercooked meat, particularly swine that contains the parasite.
- 2.2 The new Commission Regulation introduces minor changes to the specific rules on official controls for *Trichinella* in meat and a codification that creates a single consolidated Regulation, incorporating all previous amendments, including the changes that were previously introduced to provide clarity to the legislation and avoid misinterpretation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 In June 2015, the Commission put forward a proposal that Regulation (EC) No. 2075/2005 and all of its amendments go through a codification process. This has the purpose of creating a single Regulation that consolidates the previous version and all extant amendments.
- 4.2 The new Commission Regulation repealed Commission Regulation (EC) No. 2075/2005¹, laying down specific rules on official controls for *Trichinella* in meat, and was published in the Official Journal of the European Union (OJ) on 11 August

¹ OJ L 338, 22.15.2005, pg. 60

2015². The new Commission Regulation came into force on 29 August 2015 and became applicable throughout the EU 20 days after its publication.

5. Extent and Territorial Application

- 5.1 This instrument extends to England only.
- 5.2 This instrument applies in England only

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 On 7 March 2014, Commission Regulation (EU) No. 216/2014³, amending Regulation (EC) No. 2075/2005 laying down specific rules on official controls for *Trichinella* in meat was published in the OJ and introduced a more risk based *Trichinella* testing regime. Prior to this change, every pig entering the foodchain was required to be tested no matter how they were bred. The new Commission Regulation, however, reflects the reduced risks afforded by biosecurity with only 10% of pigs, or all sows and boars bred in Controlled Housing required to be tested. This regime has applied since 1 June 2014.
- 7.2 In November 2014, in response to concerns raised by Member States over interpretation, the Commission introduced a further amendment to Regulation (EC) No. 2075/2005 that provided clarity to the changes made under Regulation (EU) 216/2014. Commission implementing Regulation (EU) 1114/2014⁴ added clarity by ensuring that the text was consistent with Council Directive 64/432/EEC⁵ on animal health problems affecting intra-EU trade in bovine animals and swine, and other associated Regulations. These clarifications were made to ensure that Regulation (EC) 2075/2005 was applied correctly.
- 7.3 The only additions to the provisions of Regulation 2075/2005 as last amended by Regulation 1114/2014 (and now consolidated into the new Commission Regulation) that directly affected UK stakeholders were the introduction of two new flexibilities. One allows horse carcasses to be cut up into a maximum of six parts in a slaughterhouse or in a cutting plant on the same premises pending results from *Trichinella* testing. The second is an additional testing method for *Trichinella* in domestic swine.

8. Consultation outcome

- 8.1 During the development of Regulation (EU) 216/2014, there was extensive communication with external organisations throughout the EU negotiations of the proposals during the development of the national applications of the changes. The FSA held a number of ad hoc meetings with key organisations to help inform its

² OJ L 212, 11.8.2015, pg. 7

³ OJ L 69, 8.3.2014, pg. 85

⁴ OJ L 302, 20.10.2013, pg. 46

⁵ OJ L 121, 29.7.1964, pg. 1977

discussions and these meetings informed the conclusions of the first consultation process.

- 8.2 The FSA carried out a formal consultation in June 2014 on that amending Regulation, introducing the new testing requirements for *Trichinella*. The purpose of the consultation was to seek external organisations' views on the practical application of the changes and to determine whether the FSA's assumptions were a fair reflection of the costs, benefits and wider impacts on external organisations. Details of the consultation are published on the FSA's website at: <https://www.food.gov.uk/news-updates/consultations/2014/pigmeat-inspect-consult>
- 8.3 The FSA conducted another formal public consultation from 22 January 2016 to 7 March 2016, seeking comments on the introduction of the changes to the official controls for *Trichinella* in meat. Comments were also sought on the new flexibilities provided for in the new Commission Regulation and also on the proposed Food Safety and Hygiene (England) (Amendment) Regulations 2016.
- 8.4 One response was received. The respondent supported the consolidation of the EU legislation and the introduction of the new method of testing for *Trichinella*.

9. Guidance

- 9.1 There is existing guidance on the FSA website, which provides information on the testing requirements for *Trichinella* and how to set up self-testing laboratories. Details are available at the following links

<https://www.food.gov.uk/business-industry/meat/trichinella-pigs>

Information on the new testing requirements

<https://www.food.gov.uk/business-industry/meat/trichinella-pigs/trichinella-pigs-testing>

Information on the setting up of a self-testing lab

<https://www.food.gov.uk/sites/default/files/multimedia/pdfs/business-industry/process-map-trichinella.pdf>

Guidance on testing for *trichinella* in wild boar

<https://www.food.gov.uk/sites/default/files/multimedia/pdfs/trichinellatestingwildboar.pdf>

10. Impact

- 10.1 There is no particular impact on charities or voluntary bodies, rural areas or on members of the ethnic communities of any particular racial group that can be identified.
- 10.2 Impact on the public sector will be minimal as it is intended that auditing of controlled housing holdings, as required by the Regulation will be integrated into existing farm inspections; remaining consistent with the recommendations made by the Farming Regulation Task Force.
- 10.3 An Impact Assessment has not been prepared for the current measures, as a full consultation was carried out when Regulation (EU) 216/2014 and Regulation (EU) 1114/2014 were adopted. The responses to this consultation were published in June 2014 as mentioned above and the details can be found at:

<http://www.food.gov.uk/sites/default/files/consultation-responses-pig-meat-inspection.pdf>

10.4 As the substance of the new Commission Regulation remains the same as the previous legal framework, inclusive of amendments, and the flexibilities have no negative impact on UK practices, a further impact assessment is not required.

11. Regulating small business

11.1 The instrument will apply to all businesses, small and large.

11.2 Small and medium sized businesses are not expected to be adversely affected by the proposed testing measures. To mitigate impact on small and medium sized businesses the FSA has set up contracts to carry out the laboratory testing of *Trichinella* with the FSA covering costs.

11.3 Larger businesses that have also set up their own laboratories are also able to test on behalf of the smaller producer, which ensures there will be no added delay in the processing of pigs for the small and medium sized businesses.

12. Monitoring & review

12.1 *Trichinella* is an official control with the requirement that testing of domestic swine, wild boar, horses and other farmed and wild animal species susceptible to *Trichinella* entering the foodchain is performed. The testing is carried out by either FBO's or the FSA contractor on behalf of the FBO's. Testing and test results are monitored by the FSA to ensure compliance with the Regulation and action taken, where necessary. This monitoring may also highlight potential issues with the legislation that would be taken forward during the review of the instrument.

12.2 The FSA is required to carry out a review of this instrument every five years. The review period begins when this instrument comes into force.

12.3 In carrying out the review, the FSA is required to produce a report that sets out the objectives of this instrument, the extent to which they have been achieved and whether they could be achieved by means that impose less regulation. Information gathered via the activities described in paragraphs 11.1 above will inform the review.

13. Contact

13.1 Nasreen Shah at the Food Standards Agency, Tel: 020 7276 8538, Email: nasreen.shah@foodstandards.gsi.gov.uk, can answer any queries regarding the instrument.