

**EXPLANATORY MEMORANDUM TO**  
**THE QUALITY SCHEMES (AGRICULTURAL PRODUCTS AND FOODSTUFFS)**  
**REGULATIONS 2018**

**2018 No. 1275**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument will strengthen the protection afforded to food and agricultural products protected in the United Kingdom under the Protected Food Name Scheme. This will be achieved by the creation of a bespoke enforcement regime specifically targeted on Protected Food Names, which will be based on civil sanctions. This instrument will also introduce measures regarding the notification of enforcement and inspection findings and will formalise the route of appeal regarding the decision on submission of applications for Protected Food Names to the EU.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is United Kingdom.  
4.2 The territorial application of this instrument is United Kingdom.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

- 6.1 Protected Food Names are a subset of Geographical Indications (GIs) which relate to intellectual property protection, as well as being part of the Common Agricultural Policy. Regulation (EU) No 1151/2012 provides the basis for the protection of these products across the EU.

- 6.2 Responsibility for enforcing the use of EU Protected Food Names on products produced and/or sold in the UK is given to local authorities. Local authorities currently enforce using powers under the Food Safety Act 1990, the Fraud Act 2006 and the Consumer Protection from Unfair Trading Regulations 2008. This instrument will bring improvements to the enforcement of this scheme by introducing appropriate bespoke arrangements.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Producers can apply to the EU via their Member State to protect the names of regionally distinct or traditional products. Once registered, these products enjoy protection throughout the EU against imitation or misuse of their names. A GI label on a product assures buyers that the product has been produced according to a registered specification, in a certain place and/or to a certain recipe. Defra is responsible for forwarding suitable UK applications to the EU, verifying UK producers who are using protected food names, and enforcing against misuse of protected names for all EU registered products.
- 7.2 Producers of GI products value the scheme for the collective protection it brings from imitation. The scheme and the labelling of Protected Food Names also give consumers information about the product they are buying and help prevent consumers being misled as to the characteristics of the product. Products including Scottish Farmed Salmon, Scotch Beef and Lamb, Welsh Lamb and Beef, and Blue Stilton Cheese are collectively worth more than £800m a year in exports.
- 7.3 To ensure the scheme delivers robust protection with clear enforcement rules, this instrument will introduce bespoke enforcement legislation for the Protected Food Name Scheme. This will create a new civil sanctions regime to address the misuse of a Protected Food Name. The civil sanctions regime consists of a compliance notice supported by a non-compliance penalty notice, and also allows the local authority to seek costs in the event that a non-compliance penalty notice is issued. Unlike the current enforcement options which carry criminal fines and/or custodial sentences, the sanctions under this proposal will extend only to civil monetary penalties and will enhance the enforcement options open to enforcing authorities.
- 7.4 Where a compliance notice, a non-compliance penalty notice and/or a costs recovery notice has been issued, the person on whom it has been served may appeal to the First- tier Tribunal in England and Wales, a Sheriff in Scotland and a Magistrates' Court in Northern Ireland.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 None

## **10. Consultation outcome**

- 10.1 These Regulations were subject to a 4-week formal public consultation that took place between 5 October and 2 November 2018. The Food Standards Agency were notified of the public consultation.
- 10.2 Views received from 34 stakeholders showed a majority were in favour of the proposed enforcement improvement that this instrument would bring. Responses have been taken into consideration when developing the final version of this instrument.

## **11. Guidance**

- 11.1 Guidance will be produced to ensure that these regulations are consistently applied. It is envisaged that the guidance will be available soon after this instrument comes into force and will be published on gov.uk website. It will be available publically, including to stakeholders and enforcement bodies.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument. This is because in keeping with the Government's Reducing Regulation Sub-committee guidance the policy has been subject to a Regulatory Triage Assessment and classified as 'de minimis'. The assessment that the SI impact would be below £5 million and therefore was not subject to a full impact assessment.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is to carry out a review by November 2023.
- 14.2 A statutory review clause is included in the Regulation.

## **15. Contact**

- 15.1 James Ascott (Policy Lead) at the Department for Environment, Food and Rural Affairs, Telephone: 020 802 61122 or email: james.ascott@defra.gsi.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Ananda Guha, Deputy Director for Exports and EU Exit, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 David Rutley MP (Parliamentary Under-Secretary of State for Food and Animal Welfare) at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.