

## EXPLANATORY MEMORANDUM TO

### THE PRIVATE STORAGE AID FOR PIGMEAT (ENGLAND) REGULATIONS 2021

2021 No. 1269

#### 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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 As part of the package of measures announced on 14 October 2021 to support the pig sector due to the ongoing market disruption in the sector, the Government has agreed to fund a Private Storage Aid (PSA) scheme in England. The purpose of the scheme is to enable meat processors to store slaughtered pigs for 60, 90, 120, 150 or 180 days so that they can be preserved safely and processed at a later date.
- 2.2 This instrument is required to enable one part of this package of support to be implemented – that is, in order to open a PSA scheme for pigmeat in England. The PSA scheme will open on the day that this instrument comes into force.

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

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

- 3.1 A declaration of exceptional market conditions in the pigmeat sector was made under section 20 of the Agriculture Act 2020 on 11 November 2021 and has subsequently been published on Gov.uk and will be laid before Parliament. Exceptional market conditions exist in the pigmeat sector which justify the use of the powers in retained EU Law in connection with section 21(3) of the Agriculture Act 2020. Section 21(3) of that Act provides the Secretary of State with the power to use certain existing retained EU legislation to provide financial assistance by way of the operation of a PSA scheme, where this is in response to a declaration made. These Regulations are made using powers contained in retained EU legislation and are in response to the declaration made on 11 November 2021.
- 3.2 The grounds for considering that exceptional market conditions exist in the pigmeat sector are that there is a growing backlog of pigs held back on farms. Without action being taken, this will lead to major animal welfare implications. The backlog of pigs on farm is due to a combination of issues including the impact of the Covid-19 pandemic, which has particularly disrupted exports of pork to China, interruption of CO2 supplies and a temporary shortage of labour in processing plants, specifically skilled butchers. The loss of the Chinese market to several processing plants as a result of the Covid-19 pandemic accounts for a large proportion of the pigs currently held back on farms.
- 3.3 The PSA scheme needs to be operational by mid-November because the situation in the pig sector is now critical with an urgent need to increase throughput at

slaughterhouses to prevent significant on-farm culling from taking place. The PSA scheme enables slaughtered meat with no immediate market outlet to go into storage and be kept safe to re-enter the market at a later date. This justified breaking the 21-day rule. Slaughter and storage will commence immediately when the scheme becomes operational, resulting in better welfare for pigs and less financial damage to farmers and the wider industry. Delaying the instrument to comply with the 21-day rule would cause unnecessary welfare and financial damage.

#### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

#### **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 This instrument supplements the existing legal framework contained in retained EU legislation relating to PSA. It sets out the detailed provisions relevant to the PSA scheme which will open on the day that this instrument comes into force.
- 6.2 The general framework under which PSA for eligible products may be granted, in England, is currently provided for in retained EU law. The instrument also modifies specific parts of retained EU law for the purposes of this scheme to make clear the circumstances in which the Secretary of State may reduce the quantity in an application for PSA and the circumstances in which applications for PSA are to be rejected and to modify specific parts of retained EU legislation as it applies in relation to securities which are to be lodged for the purposes of this scheme.
- 6.3 This instrument makes use of the powers contained in Section 21(3) and Section 22 of the Agriculture Act 2020 for the first time.

##### *Applications for private storage aid*

- 6.4 These Regulations provide that an eligible operator may make an application for aid for private storage for an eligible product at any time before noon on 2 February 2022. An eligible operator may make more than one PSA application.
- 6.5 In these Regulations “eligible operator” means an eligible operator for the purposes of this scheme is an operator who is established and registered for VAT purposes in the United Kingdom. If the operator meets the scheme requirements, they would be eligible to enter their products into the scheme. An eligible product under pigmeat private storage aid is one of those listed under the common nomenclature codes/ descriptions set out in the accompanying SI and satisfies the requirements of Article 3(1) and (3) of Regulation (EU) No 2016/1238(b) (eligibility of products).

#### **7. Policy background**

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

- 7.1 There is a growing backlog of pigs on farms due to reduced processing capacity. This has been a result of the Covid-19 pandemic, which has particularly disrupted exports

of pork to China, interruption of CO2 supplies and a temporary shortage of labour, specifically skilled butchers in pig processing plants. We expect the backlog to grow without intervention. This represents a significant animal welfare issue on farm. There is a risk that farmers who cannot accommodate these additional pigs will be forced to cull them on or off farm. Pigs culled on farm are not allowed to enter the food chain, creating an economic loss for farmers as they would not be compensated for culling.

- 7.2 A number of measures have been announced by the Government to alleviate the backlog of pigs on farm and the associated animal welfare impacts. These include: provision of 800 temporary visas to enable butchers to enter and work in the UK for a period of up to 6 months, PSA, and a Slaughter Incentive Payment Scheme to incentivise processors to increase throughput of pigs from farm through to slaughter and processing. Defra together with the Agriculture and Horticulture Development Board (AHDB) are also seeking to identify new export markets for pork, particularly lightly processed pork.

### ***Explanations***

#### *What did any law do before the changes to be made by this instrument?*

- 7.3 The basic framework for PSA is set out in retained EU law. Under this retained EU law, regulations are required in order to set out specific details in relation to the PSA scheme.

#### *Why is it being changed?*

- 7.4 The instrument sets out the following specific parameters for the administration of the scheme which relate to the eligibility of operators and products, the minimum contract size, the rate of aid for payments, storage periods, the application window which will open to applicants on the day after the day on which these Regulations are laid before Parliament and close on 2 February 2022, and the rate of security that must be lodged in support of applications made.

#### *What will it now do?*

- 7.5 Private Storage Aid contributes to the cost of storing pig meat and is intended to incentivise and support processors to increase throughput by providing storage as an option if no immediate market outlet is available, thereby reducing the number of pigs which may otherwise have to be culled, and avoiding the currently anticipated animal welfare issues, by providing the opportunity to place products in frozen storage for an agreed period of time. This instrument provides for certain minimally butchered and de-boned pork products to be eligible for entry into the PSA scheme. The inclusion of eligible minimally butchered pork products is aimed to respond to the immediate difficulties of limited butcher capacity. As more butchering capacity becomes available through the temporary visa scheme, it is expected that more animals may be slaughtered and stored as de-boned pork products. Minimally butchered and de-boned cuts will be safely stored and will be able to be released onto the market at the end of the agreed period that they are held in storage. In the case of minimally butchered cuts, it is expected that these would be subject to either further butchering at the end of the storage period or that they would be exported to overseas markets.
- 7.6 Defra is making this instrument under powers contained in existing retained EU law in order to open a PSA scheme for pigmeat and to set out the specific details of

the scheme. Without these provisions the scheme will not be able to open to applicants.

## **8. European Union Withdrawal and Future Relationship**

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

## **9. Consolidation**

- 9.1 There are no plans to consolidate these Regulations.

## **10. Consultation outcome**

- 10.1 An informal, targeted engagement exercise has been undertaken with industry wide pigmeat stakeholder representatives on the scope of the PSA scheme. These took place on 27 October 2021 and 9 November. Stakeholders included all of the main pig processors and the processing trade bodies. Separate consultations took place with the representatives of the pig producers over the period 15 October – 9 November. All consultations were undertaken virtually.
- 10.2 All stakeholders were appreciative of the need for the proposed opening of a PSA scheme for pigmeat as a key component of the wider support package to the sector.

## **11. Guidance**

- 11.1 Guidance will be provided once this instrument takes effect and will be available on 15 November.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.
- 12.2 There is expected to be no, or no significant impact on the public sector as a result of this instrument.
- 12.3 A full Impact Assessment has not been prepared for this instrument because PSA schemes are not regulatory in nature. The affected businesses will be pig farmers and pork processors. The most significant benefits are likely to be improved animal welfare outcomes, through avoided on farm culling and reduced stocking densities, and enhanced social welfare, through the avoided destruction of safe pig meat that could have otherwise entered the food chain.

## **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 as no, or no significant impact on small businesses is foreseen.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is through successful implementation and enforcement of the checks by the Rural Payment Agency.
- 14.2 The instrument does not include a statutory review clause as the application window for the scheme will close on 2 February 2021.

## **15. Contact**

- 15.1 John Powell, at the Department for Environment Food and Rural Affairs Telephone: 07785308388 or email: John.Powell2@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Balwinder Dhoot, Deputy Director for Food, Farming Sectors at the Department for Environment Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Victoria Prentis MP, Minister of State at the Department for Environment Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.