EXPLANATORY MEMORANDUM TO

THE FREE-RANGE POULTRYMEAT MARKETING STANDARDS (AMENDMENT) (ENGLAND) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Daniel Zeichner, Minister of State (Minister for Food Security and Rural Affairs) at the Department for Environment, Food and Rural Affairs ("Defra"), confirms that this Explanatory Memorandum meets the required standard.

2.2 Gill Laishley, Deputy Director for Farming and Primary Processing, at the Department for Environment, Food and Rural Affairs ("Defra") confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sarah F Wilson at the Department for Environment, Food and Rural Affairs ("Defra") Email: pigseggsandpoultryteam@defra.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this statutory instrument is to enable free-range poultry meat to be marketed as such in England for the duration of any imposed mandatory housing measures which restrict access of free-range poultry to open air runs, provided all other free-range criteria continue to be met.

4.2 The legislation amended by this instrument is:

- Assimilated Commission Regulation (EC) No 543/2008 of 18 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for poultry meat (EUR 2008/543).

4.3 A separate statutory instrument, The Free-Range Egg Marketing Standards (Amendment) (England) Regulations 2025,[1] has recently been made in respect of the marketing standards for free-range eggs (EUR 2008/589), meaning that, provided all other free-range criteria continue to be met, free-range eggs can be marketed as such in England for the duration of any mandatory housing measures restricting the birds' access to open air runs.

[1] https://www.legislation.gov.uk/uksi/2025/62/contents/made

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 Recent outbreaks of avian influenza (AI) in England have led to the Government introducing regional and national mandatory housing measures restricting access to open air runs for free-range poultry.

5.2 During mandatory housing measures, poultry producers can currently continue to market their products as free-range for a period of 12 weeks. Most recently, mandatory housing measures were in place across multiple counties in England from December 2024 to May 2025, exceeding the maximum 12-week derogation period. After the expiry of this 12-week period the legislation requires poultry meat to be marketed as indoor-reared where access to open air runs remains restricted. This was also the case in 2016/17, 2020/21, 2021/22 and 2022/23. The 12-week derogation period is applied on a flock-by-flock basis; this means that the 12-week maximum derogation period resets for each new incoming flock.

5.3 The United Kingdom ("UK") produces approximately 1.1 billion broiler chickens (chicken reared for meat), 9 million turkeys, and 9 million ducks and geese per year. Approximately 4% of domestic poultry production is free-range. It is this free-range poultry meat sector which this instrument relates to.

5.4 As broiler chickens are generally slaughtered within 6-8 weeks from hatching, the majority of poultry flocks affected by recent mandatory housing measures have been slaughtered before they could exceed the 12-week derogation period. In practice, the removal of this derogation will therefore apply only to free-range birds with longer production cycles, primarily turkeys, ducks and geese. Production of these birds increases significantly in the run up to Christmas to meet consumer demand. In the event that a mandatory housing measure is implemented in early Autumn, and the 12-week derogation period is exceeded, the viability of these free-range sectors could be adversely impacted if poultry meat has to be marketed as indoor-reared. This instrument will ensure that free-range poultry meat producers, particularly those rearing turkeys, ducks and geese, will not incur additional costs for adhering to government-imposed requirements to house their birds. It will also ensure that they are able to retain the free-range premium for their birds (refer to Paragraph 9.3).

5.5 In the event of access to open air runs being restricted during a housing measure, for birds to continue being marketed as free-range, all other free-range production criteria would still need to be met.

5.6 In 2023, the European Union ("EU") consulted on amending their equivalent legislation relating to the maximum 12-week derogation period in a similar way as proposed in our own consultation (refer to Section 7). We understand the amendment was subsequently agreed by Member States, but, at the time this SI is to be laid has yet to be formally adopted.

5.7 The UK is an exporter of poultry meat with 76.5% of our exports in 2024 going to the EU. The EU is also the main supplier of imported poultry meat to the UK. Any

changes to EU legislation will impact on the UK, not least as Northern Ireland ("NI") is required to implement EU legislation under the terms of the Windsor Framework.

5.8 Secondary legislation is required to allow England to retain parity with the changes the EU is proposing to introduce. This legislation will enable the English free-range poultry meat sector to avoid loss of free-range premium and ensure that English producers can continue to operate on a level playing field commercially with competitors in NI and the EU.

5.9 The regulation of poultry meat marketing standards is a devolved responsibility. Following consultations that were undertaken during 2024, Defra and the Devolved Governments have agreed to amend their respective legislation to remove the 12-week derogation. Defra and the Scottish Government conducted a joint consultation on the removal of the maximum 12-week derogation period from 21 October to 16 December 2024, while the Welsh Government ran a separate 6-week consultation on the removal of the maximum 12-week derogation period from 29 July to 9 September 2024. Each Devolved Government will lead on the adoption of any amendments that may be required to the legislation covering its own jurisdiction.

What was the previous policy, how is this different?

5.10 Currently when free-range birds are placed under mandatory housing measures which limits access to open air runs, due to disease outbreaks such as avian influenza (AI), the assimilated poultry meat marketing standards legislation allows their meat to be marketed as free-range for a maximum of 12 weeks. After this time, if access to open air runs continues to remain restricted, the poultry meat has to be marketed as indoor-reared.

5.11 This instrument will ensure that free-range poultry meat can be marketed as free-range for the duration of any mandatory housing measure limiting access to open air runs. This will reduce logistical challenges and financial costs for the free-range poultry meat industry when, for example, avian influenza mandatory housing restrictions are imposed by the Government.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument makes amendments to assimilated law.

6.2 Under Annex 5 to Commission Regulation (EC) No 543/2008, where mandatory measures are adopted requiring access of poultry to open-air runs to be restricted in order to protect public or animal health, poultry may continue to be marketed as free-range for a maximum continuous period of no more than 12 weeks. This instrument removes the maximum period to allow poultry to continue to be marketed as free-range for the duration of any mandatory housing measures restrictions, irrespective of their length.

Why was this approach taken to change the law?

6.3 The public consultation undertaken in 2024 (refer to Paragraph 5.9 and Section 7) identified the increasing number of AI outbreak years when mandatory housing measures had been imposed by the government and the 12-week derogation had been exceeded. It also identified that removing the maximum 12-week period for the derogation is an effective solution to address the logistical and financial challenges that free-range poultry producers had encountered when their birds were subject to

mandatory housing measures limiting the birds' access to open air runs, but not impacting on any of the other criteria on which the free-range designation is granted. Removal of the 12-week derogation will also ensure alignment with proposed EU legislative amendments, which would automatically apply in NI under the Windsor Framework. By removing the 12-week derogation, subject to the EU adopting their proposed amendments, English free-range poultry meat producers will be operating to the same legislative requirements as EU producers, ensuring continuation of free and fair trade of poultry meat between England, the EU, and NI.

7. Consultation

Summary of consultation outcome and methodology

7.1 Defra, together with the Scottish Government, jointly issued a public consultation titled "Consultation on Removing the 12-week Derogation Period in Poultry Meat Marketing Regulations (PMMR) - England and Scotland". This was held between 21 October and 16 December 2024. In total, the consultation received fourteen responses from a range of respondents, including seven poultry producers, three sector trade organisations, two members of the public and two animal welfare/environment non-governmental organisations (NGOs).

7.2 The scope of the consultation included:

- Removing the 12-week limit on the derogation period allowing poultry to be marketed as free-range instead of indoor-reared throughout the duration of a mandatory housing measure in England and Scotland.
- Removing a certification requirement, which does not apply in practice, for imported poultry meat with one or more Optional Indications (OIs).

7.3 The first proposal in the consultation had strong support with 79% of respondents supporting the removal of the 12-week limit to the derogation. 71% of respondents felt the proposal would confuse consumers either "not at all" or "to a small extent". The suggestions to reduce any confusion mostly focused around providing additional signage at the point of sale and alternative labelling on packaging.

7.4 Several of the respondents to the consultation were poultry producers or businesses which operate across GB. These respondents outlined if the proposed removal of the maximum 12-week derogation period was not adopted on a GB-wide basis, this could impact their businesses due to increased regulatory burden resulting in disruption to the internal market and reducing supply chain efficiency.

7.5 Action on addressing the second proposal covered by the consultation, will be considered further on a longer timescale taking account of the announcement at EU-UK Leader's Summit on 19 May 2025 that the UK and the EU will work towards a Sanitary and Phytosanitary (SPS) agreement. The agreement will cover SPS standards and controls and also wider agrifood rules, including key marketing standards. Imports of OI poultry meat from the EU do not need an accompanying certificate until 01 February 2027 under an exemption adopted by the UK Government on 16 September 2024.

7.6 A summary of the consultation responses and the Government's response can be found on Gov.UK[2].

[2] https://www.gov.uk/government/consultations/amending-poultry-meat-marketing-regulations-in-england-and-scotland/outcome/summary-of-responses-and-government-response#executive-summary

8. Applicable Guidance

8.1 No guidance is required.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because of its low level of impact on a small number of businesses. Records held by the Animal and Plant Health Agency (APHA) indicate 169 total premises are marked as active for free-range poultry meat production. However, a de minimis assessment (DMA) has been produced which outlines the estimated benefit to the free-range industry of removing the maximum period to the derogation amounting to £0.86 million per annum.

Impact on businesses, charities and voluntary bodies

9.2 The legislation has the potential to impact all free-range poultry businesses – from small independent producers to larger, processing businesses. The extent of the impact will be determined by the time of year of any housing measures. For example, if housing measures were introduced in late summer/early autumn then the maximum 12-week derogation period could be exceeded during autumn/winter before or during the period when the free-range poultry sector is preparing for the seasonal Christmas market.

9.3 Free-range poultry meat commands a premium price in comparison to indoor-reared poultry meat. This is due to the higher production costs that a producer incurs. During mandatory housing measures producers will still have the operating costs of a free-range poultry production system, with the additional cost of having to ensure that birds are also temporarily housed indoors. Therefore, enabling all free-range poultry meat to be marketed as such for the full length of any mandatory housing measures will reduce the likelihood of imported free-range poultry meat substituting English poultry meat and provide stability to the free-range poultry sector during periods of uncertainty.

9.4 There is no significant impact on the public sector, charities and/or voluntary bodies because this instrument impacts directly on the free-range poultry meat industry including producers, processors and retailers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation will take place by regularly consulting with the poultry meat industry, retailers and consumer groups to understand the impacts of the legislation.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Daniel Zeichner, Minister of State (Minister for Food Security and Rural Affairs) for Defra, has made the following statement: A statutory review would be disproportionate when taking into account the economic impact of the regulation. This amendment to legislation will save the free-range poultry meat industry an estimated £0.86 million

per annum. In addition, as there is sufficient monitoring of this assimilated legislation taking place, this instrument does not include a statutory review clause.

10.3 The removal of the 12-week maximum period for the derogation for the marketing of free-range poultry during a mandatory housing measure does not impose any additional regulatory impact on businesses, charities or the voluntary sector.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Daniel Zeichner, Minister of State (Minister for Food Security and Rural Affairs) for Defra, has made the following statement regarding Human Rights:

"In my view the provisions of The Free-Range Poultrymeat Marketing Standards (Amendment) (England) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").