EXPLANATORY MEMORANDUM TO

THE FOOD INFORMATION (AMENDMENT OF TRANSITIONAL PROVISIONS) (ENGLAND) REGULATIONS

2022 No. 938

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 Her Majesty.

2. Purpose of the instrument

2.1 This statutory instrument amends subordinate legislation and retained EU law relating to several food labelling provisions.

2.2 The amendments made by this instrument will extend the transitional periods for some food labelling changes which were originally implemented following the United Kingdom's withdrawal from the European Union. The extension of these transitional arrangements will add an additional 15 months, ending on 31 December 2023 with the new requirements commencing 1 January 2024.

2.3 The extension of the transitional arrangements is in response to the significant food supply chain impacts being experienced by the sector at present. In the current context of global rises in energy costs and supply chain disruptions, the Government has concluded that new administrative requirements which could increase costs on businesses and consumers should be avoided, where possible. The extension of the transitional arrangements provides businesses in the sector with the option of continuing to meet existing food labelling requirements and a longer lead time before the replacement requirements come fully into force.

3. Matters of special interest to Parliament

3.1 None.

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 only.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Following the United Kingdom's withdrawal from the European Union, and as part of the process of updating and amending retained EU law and associated domestic provisions, various food labelling changes were introduced. In particular, amendments were made to provisions which referenced the EU or EU requirements to show, in future, that the provisions in questions now related to the UK or UK requirements.

These amendments were introduced with transitional periods which provided the sector with a period of time to adapt to the changes.

6.2 This instrument amends the transitional arrangements which apply to changes to food labelling requirements that are included in the following subordinate legislation and retained EU law:

- Commission Regulation (EC) No 1825/2000 laying down detailed rules for the application of Regulation (EC) No 1760/2000 of the European Parliament and of the Council as regards the labelling of beef and beef products (EUR 2000/1825);
- The Quick-frozen Foodstuffs (England) Regulations 2007 (S.I. 2007/191);
- Commission Regulation (EC) No 589/2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs (EUR 2008/589);
- The Marketing of Fresh Horticultural Produce Regulations 2009 (S.I. 2009/1361);
- The Beef and Veal Labelling Regulations 2010 (S.I. 2010/983);
- Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (EUR 2011/543);
- Commission Implementing Regulation (EU) No 29/2012 on marketing standards for olive oil (EUR 2012/29);
- The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013 (S.I. 2013/2210);
- The Food Safety and Hygiene (England) Regulations 2013 (S.I. 2013/2996);
- The Food Information Regulations 2014 (S.I. 2014/1855);
- The Country of Origin of Certain Meats (England) Regulations 2015 (S.I. 2015/518);
- The Honey (England) Regulations 2015 (S.I. 2015/1348);
- The Caseins and Caseinates (England) Regulations 2017 (S.I. 2017/848); and
- Commission Delegated Regulation (EU) 2019/33 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (EUR 2019/33).

6.3 The subordinate legislation amended by this instrument applies only in England. Although the amendments to retained EU law made by this instrument also only apply in England, as the retained EU law applies across Great Britain the Welsh Government and the Scottish Government propose to make the same amendments so that the extended transitional periods will apply throughout Great Britain.

7. Policy background

What is being done and why?

7.1 This instrument will extend the transitional periods which apply to some food labelling changes which were introduced following EU Exit and provide an additional 15 months before the changes are fully implemented.

7.2 The extension recognises the significant supply chain impact due to Russia's illegal invasion of Ukraine and the recent rise in global energy costs. The Government has concluded that in this context new administrative requirements on businesses, who may pass-on the associated costs to consumers already facing pressures on their finances, should be avoided where possible.

7.3 The transitional periods for some food labelling rules, that were due to apply from 1 October 2022, will accordingly be extended meaning a delay until 1 January 2024 before they will apply in full.

7.4 A full list of affected products is below:

7.5 **Food Business Operator (FBO) Addresses:** an extension of the transitional provisions effected by this SI means that businesses can continue to use an EU, GB or NI address for the FBO on pre-packaged food or caseins in England until 31 December 2023.

7.6 **Identification marks:** an extension of the transitional provisions effected by this SI means that businesses can continue to use "UK/EC" identification marks, until 31 December 2023. This is for Products of Animal Origin (POAO) placed on the market in England. It is not applicable to POAO produced in the UK for placing on the EU, Northern Ireland or non-EU markets.

7.7 **Beef and veal labelling:** an extension of the transitional provisions effected by this SI means that - for beef and veal in England - businesses can continue to refer to 'non-EU' in relation to the origin if the animal the beef or veal came from was born, reared or slaughtered outside of the EU and the business does not have the full individual country information, until 31 December 2023. Similarly, in relation to meat derived from animals imported live into the EU, businesses can continue to use the indication 'live import into the EC' where the full country information is not available. From 1 January 2024, businesses will need to use the 'non-UK' and 'live import into the UK' indications.

7.8 **Meat and minced meat labelling (goat, sheep, swine and poultry):** an extension of the transitional provisions effected by this SI means that – for certain meat and minced meat in England – businesses can continue to refer to 'EU' and 'non-EU' when the label does not list each country of origin until 31 December 2023.

7.9 **Honey blends labelling:** an extension of the transitional provisions effected by this SI means that – for honey blends in England – businesses can continue to use the current origin wording until 31 December 2023. This means businesses can use one of the following:

- 'blend of honeys from more than one country' (or similar wording);
- 'blend of EU honeys';
- 'blend of non-EU honeys';
- 'blend of EU and non-EU honeys'.

7.10 **Olive oil labelling**: an extension of the transitional provisions effected by this SI means that – for olive oil blends in England – businesses can continue to refer to 'blend of olive oils of EU origin' and 'blend of olive oils not of EU origin', or a combination, when the label does not list each country of origin until 31 December 2023.

7.11 **Fruit and vegetable labelling**: an extension of the transitional provisions effected by this SI means that – for mixes of fruit and vegetables in England – businesses can continue to refer to 'EU' and 'non-EU' until 31 December 2023. From 1 January 2024, businesses must then use 'non-UK' or 'UK and non-UK' when the label does not list each country of origin.

7.12 **Egg labelling:** an extension of the transitional provisions effected by this SI means that businesses can continue to mark eggs imported from countries for which there is not sufficient guarantee of equivalence of rules relating to domestic egg trade as 'non-EC standard' or 'non-UK standard', in addition to specifying the country of origin, until 31 December 2023.

7.13 **Wine:** an extension of the transitional provisions effected by this SI means that – for the purposes of marketing wine in England – businesses can continue to use the EU importer or bottler's details until 31 December 2023.

7.14 **Quick frozen foods:** an extension of the transitional provisions effected by this SI means that – for quick-frozen foodstuffs in England – businesses placing products on the market can continue to use an EU address on the packaging until 31 December 2023.

7.15 **Extraction solvents:** an extension of the transitional provisions effected by this SI means that – for extraction solvents in England – businesses placing the products on the market can continue to use an EU address on the packaging until 31 December 2023.

8. European Union Withdrawal and Future Relationship

8.1 This instrument makes amendments to transitional periods which apply in relation to changes to retained EU law and domestic legislation that resulted from EU withdrawal. This instrument is made entirely under powers outside of the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 Defra does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 No formal public consultation was carried out about this specific instrument as it is a simple extension of the period the current rules remain in place

10.2 However there has been targeted consultation through engagement with representative bodies, as required by Article 9 of Regulation (EC) No 178/2002, during the preparation and evaluation of this instrument. No changes were made to the proposed approach based on this engagement.

10.3 The targeted consultation was conducted jointly by Defra, the Food Standards Agency, the Welsh Government and the Scottish Government.

11. Guidance

11.1 A detailed summary of all the changes and the implications for businesses of this instrument has been circulated to stakeholders via email.

11.2 The government has also updated the relevant pages on gov.uk.

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 because no, or no significant impact on the private or voluntary sector is foreseen. The purpose of this instrument is to maintain existing regulatory standards and so there is expected to be minimal impact on business trading in the UK. The changes made by this instrument are intended to maintain the status quo in terms of the regulatory obligations placed on business. There should therefore be no changes in business practices and no significant changes in the direct costs faced by businesses trading in the UK. As a result, we are confident that this change in regulation falls below the £5m per annum threshold for net direct costs to business.

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.

13.3 No disproportionate impacts are expected to affect small and micro businesses.

13.4 The changes made by this instrument are intended to maintain the status quo in terms of the regulatory obligations placed on small and micro businesses.

14. Monitoring & review

14.1 Defra and its agencies will monitor and review the impact of the instrument as part of its standard policy-making procedures and will ensure that the provisions are adhered to.

15. Contact

15.1 Oliver Dye at the Department for Environment, Food and Rural Affairs, Telephone: 07825387309 or email: oliver.dye@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kevin Kitching, Deputy Director for Food Standards and Consumers, 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 for Farming, Fisheries and Food at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.