



PARTIAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

The Country of Origin of Certain Meats (Scotland) Regulations 2015

Date: xx September 2015
Stage: Consultation
Source of intervention: EU
Type of measure: Implementing Regulation
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1. Title of Proposal

The Country of Origin of Certain Meats (Scotland) Regulations 2015

2. Purpose and intended effect

• Objectives

The specific objective of these Regulations is to provide the necessary enforcement provisions for Commission Implementing Regulation (EU) No 1337/2013 on mandatory origin labelling for unprocessed fresh, chilled and frozen meat (including minced meat) of swine, sheep, goats and poultry. The overall objective of the Commission legislation is to ensure that consumers are provided with accurate, clear and useful information on the origin of the meat species mentioned without imposing disproportionate costs on businesses.

• Background

Consumers need accurate, clear and useful information to make informed, healthy and safe food choices. Regulation (EU) No 1169/2011 on the provision of food information to consumers (FIC) brought together European rules on general food labelling and nutrition labelling into one piece of legislation. This Regulation set out the mandatory particulars which food business operators (FBOs) must provide on prepacked food labels. The UK requires to ensure the effective enforcement of this directly applicable Regulation under its general treaty obligations.

FIC provided a framework for improving consumer information and helping businesses to develop a level playing field across the EU. A key objective of FIC is to ensure consumers are not misled by how FBOs indicate a product's country of origin. It should also improve consumer understanding of information related to country of origin labelling for meat. Article 26 along with Annex XI of FIC required the Commission to adopt implementing acts on the application of mandatory country of origin labelling for selected meats.

There are growing concerns about traceability of meat coming into the EU and UK market from different sources and there have been increasing calls for robust and stringent country of origin labelling, especially in the wake of incidents of horse meat being substituted for other meats in processed foods .

In December 2013, the European Commission adopted Implementing Regulation (EU) No 1337/2013 laying down rules for mandatory labelling of the country of origin or place of provenance for fresh, chilled and frozen meat of pigs, sheep, goats and poultry. The Regulation recognises that, compared to beef, traceability systems for other species at farm level are less advanced and that the mandatory information for meat of these species is limited to places of rearing and slaughter.

All meat obtained from the above animals must be labelled with the Member State or third country (i.e. non EU) of rearing, written as 'Reared in: country x' and the Member State or third country of slaughter, written as 'Slaughtered in: country x'. Labels must contain a batch code identifying the meat. There must also be an identification and registration system in place that ensures the transmission of the mandatory information along the food chain.

For meat, traditionally the concept of country of origin has meant the country in which the animal was born, reared and slaughtered. However, when several countries have been involved, that concept of the country where the meat has undergone its last substantial and economically justified processing or working as per the current World Trade Organisation (WTO) definition has applied. However, it is considered that

applying this to situations in which the meat comes from animals which were born, reared and slaughtered in different countries would not sufficiently inform the consumers about the origin of the meat. Therefore, in those situations it is necessary to provide an indication, on the label, of the Member State or third country where the animal has been reared for a period representing a substantial part of the normal cycle of rearing for each species, as well as of the Member State or third country where it has been slaughtered. The term 'origin' should be reserved for meat obtained from animals born, reared and slaughtered, and therefore wholly produced, in one single Member State or third country.

Recent research indicates that consumers consider the origin to be where the animal was farmed. Only 12% of consumers in a NatCen 2010 poll thought that country of origin reflected the place of the last substantial change. In the same poll, 54% of respondents thought that origin labelling was an indication of where the animal was farmed (i.e. reared). The current definitions regarding country of origin are not consistent with consumers' perceptions. 26% thought it referred to where the animal was slaughtered, and 23% to where the animal was born. The survey found that 76% of respondents believed that labels should reflect where the animal was farmed.

Therefore there is a market failure (asymmetric information), as informed parties (FBOs) have more information than uninformed parties (consumers) on meat origin of particular products. Consumers might purchase different products if they had the correct information.

- **Rationale for Government intervention**

Consumers are unaware of the definition of country of origin for unprocessed meat of pigs, sheep, goats and poultry, leading to asymmetric information in these markets. Government intervention is necessary to introduce legislation to correct this market failure and comply with minimum EU regulations by requiring firms to provide consumers with country of origin information. This legislation is necessary to maintain the competitiveness of the Scottish meat trade and allow Scottish industry to compete on an equal basis with the rest of Europe in line with the Scottish Government's productivity and participation targets.

3. Consultation

- **Within Government**

Scottish Government officials from the Food, Drink and Rural Communities Division were engaged during the negotiation of the EU Regulation. The consultation package regarding the proposed Scottish Statutory Instrument (SSI) was also discussed with these officials and officials from the Health and Wellbeing Directorate.

- **Public Consultation**

A 12 week public consultation will be carried out in Scotland on the draft national legislation from 25 September to 18 December 2015.

- **Business**

A selection of Scottish businesses of different sizes and from various geographical areas will be approached during the public consultation period to discuss the likely impact on their business of the changes proposed in the SSI.

4. Options

Option 1 – Do nothing.

'Do nothing' is not an option that would be legally acceptable for the Scottish Government to choose. Regulation (EU) No 1337/2013 is directly applicable and legally binding in Scotland and the rest of the UK. Without an appropriate legal basis for enforcement, enforcement authorities in Scotland would not have the necessary powers to enforce the specific traceability and labelling provisions of the EU Regulation; offences could not be prosecuted and penalties could not be imposed on those in breach of the Regulation. Country of origin labelling of these meats could be presented in an inconsistent manner.

Under EU law, the UK is obliged to provide for the enforcement of EU legislation. Failure to do so may lead to the UK being liable to infraction proceedings and consequent fines. Scotland would be required to pay a percentage of any UK fine if the infraction related to a devolved matter.

Option 2 – This option would require FBOs to label prepackaged unprocessed pig, poultry, sheep or goat meat with information on the place where the animal was reared and slaughtered. The general rule is that all meat obtained from the above animals must give the EU Member State or third (Non-EU) country of rearing, written as 'Reared in: *country x*' and the Member State or third country of slaughter, written as 'Slaughtered in: *country x*'. Labels must also contain a batch code identifying the meat. There must also be a traceability system in place that ensures the transmission of the mandatory information along the food chain. Under this option enforcement would be carried out at retail level by Local Authority enforcement officers on a risk based approach. Food Standards Scotland (FSS) inspectors would be responsible for enforcement of the traceability and labelling requirements of the Regulations in approved slaughterhouses and cutting plants.

- **Sectors and groups affected**

While these proposed Regulations apply to Scotland only, separate but similar regulations have been introduced in England and will be introduced in Wales and Northern Ireland; as such the impact on the UK as a whole has been assessed.

Consumers – Non-monetised benefits to consumers from country of origin information. We assume there will be benefits to consumers from increased transparency as a result of mandatory EU country of origin labelling. These benefits are discussed qualitatively, due to a lack of current evidence in this area which we are hoping to develop during the consultation stage of this Business and Regulatory Impact Assessment (BRIA).

Enforcement Authorities – Responsibility for enforcement of the Country of Origin of Certain Meats (Scotland) Regulations 2015 rests with different bodies during the production process.

- One-off familiarisation cost to Local Authorities and FSS from enforcement officers having to learn and disseminate information about new regulations.
- Annual non-monetised verification cost to Local Authority and FSS enforcement officers having to verify labels and records.

Businesses – Affected businesses are assumed to include farmers, manufacturers, wholesalers, slaughter houses, meat packers and retailers in the supply chain for

unprocessed pigs, poultry, sheep and goat meats. However, we do not have data on the split between the different types of business affected, but rather the total number of FBOs. We have assumed that costs are spread evenly across all FBOs, due to the absence of evidence on the spread of the market share for unprocessed meats. We will investigate this during the consultation stage of this BRIA.

These costs include:

- One-off familiarisation costs to FBOs from senior managers having to learn and disseminate information about new regulations.
- One-off costs to FBOs of re-labelling meat stock keeping units (SKUs) to comply with the regulations.
- Non-monetised annual increased operational costs. If businesses have to make technical adjustments to their production process, for example by needing to separate out meats from different country of origin, to comply with the regulation then there will be a cost. At this stage we are unclear regarding the scale of these costs and will seek to investigate further during the consultation.
- Non-monetised indirect impact on the demand for unprocessed meats. It is unclear at this stage what the impact will be on the demand for UK produce. This could have a positive effect according to evidence suggesting benefits of origin information to local sourcing. However, this may be offset by a fall in demand from consumers if they face higher prices as a result of the costs of FBOs complying with the regulation. The net impact is uncertain.

There may be a non-monetised benefit to FBOs from increased transparency as a result of mandatory EU country of origin labelling. There is no current evidence in this area which we are developing during the consultation stage of this BRIA.

It has been estimated that a total of 824 Scottish meat enterprises will be affected spread among the categories: production, wholesale and retail. as set out in Table 1.

Table 1: Meat related enterprises in Scotland

	Production of meat and poultry meat products (Scotland)	Wholesale of meat and meat products (Scotland)	Retail sale of meat and meat products in specialised stores (Scotland)
Number of enterprises	99	145	580

Source: ONS-IDBR-Dataset ID: UKBA01a. Datatitle: Enterprise/local units by 4 Digit SIC and UK Regions

Small and Micro Business Assessment

We do not propose to seek derogation for small and micro businesses to the mandatory country of origin labelling requirements for unprocessed meat. Small businesses are defined as those with up to 49 full-time equivalent (FTE) employees. Micro businesses are types of small businesses with up to 10 FTE employees.

Since the FIC Regulation is directly applicable in all Member States, Scotland does not have the scope to put forward any alternatives to the legislation. Furthermore, an exemption for small and micro businesses would significantly reduce the likelihood of

achieving the desired benefits of FIC, as a large portion of FBOs in Scotland are small and medium enterprises. Data in Table 2 indicates that small and micro businesses accounted for 96% of all FBOs in Scotland in 2011. We have assumed that these proportions will remain constant over the period considered in this BRIA. However, it is unclear what proportion of these FBOs will be affected by this regulation since not all FBOs will handle unprocessed meats as described in this BRIA.

	Micro	Small	Medium	Large	Total
Scotland	3,605	600	150	40	4,395
England	38,245	4,610	870	245	43,970
Wales	1,920	240	45	10	2,215
Northern Ireland	1,490	305	75	15	1,885
UK	45,260	5,755	1,140	310	52,465

Table 2: Food Business Operator manufacturer, retailer and wholesaler numbers operating in 2011, by country and firm size. Source: Bespoke analysis from 2011 ONS Business Demography publication data.

- **BENEFITS**

Option 1

Do nothing. There are no incremental benefits. This is the baseline against which any other options are appraised. The baseline is the current situation, which requires mandatory country of origin labelling be in place for beef and beef products, veal, honey, fruit and vegetables, fish and shellfish, olive oil, eggs, wine, poultry imported from outside the EU. It is also mandatory where failure to indicate the country of origin would mislead the consumer to a material degree as to the true provenance of the food.

However, until April 2015 country of origin labelling was not required for fresh, chilled and frozen meat of pigs, poultry, sheep and goats, but it could be provided voluntarily. Where voluntary origin information is provided, most FBOs follow best practice which only recommends place of “last substantial transformational change”, which typically tends to be place of slaughter. From a consumer perspective there is a lack of understanding as to what this actually means, given the information failure.

The central assumption in this BRIA is that all FBOs are affected and no voluntarily labelling consistent with origin as defined by the proposed EU regulation is taking place in the baseline. This is because the proposed regulation requires changes from existing voluntary best practice guidelines illustrated above.

Given that voluntary origin information on meat labels has become more widely available in recent years, it has also been assumed that that there are no additional costs associated with implementing an identification and registration system to ensure the transmission of the mandatory information throughout the food chain.

Consultation Question 1:

Are the assumptions above reasonable? Are you aware of other information on the number of FBOs voluntarily indicating country of origin consistent with the new regulation?

Option 2

There may be benefits to consumer and FBOs from increased transparency as a result of mandatory country of origin labelling. These benefits are discussed qualitatively, due to a lack of current evidence in this area which we are developing during the consultation stage of this BRIA. Other non-monetised benefits would include the prevention of any infraction proceedings from not complying with our EU obligations.

Consumers

The impact of regulation on consumer confidence depends on both the quantity of information that consumers want to know being provided on mandatory food labels, and consumer awareness about the changes.

The Food Standards Agency in Scotland carried out a consumer research study at the end of 2014 which included country of origin labelling. The findings showed that few food consumers actively look at the country of origin information on food labels when deciding what food to buy. From consumers' perspectives, country of origin labelling was relevant for certain products, where their vulnerability as food consumers was highest. They agreed that the country of origin of all meat and fish, including all meat and fish in processed products, should be clearly labelled, with support also evident for labelling milk.

Consumers were concerned about packaging that misleads them about the origin or provenance of food. This weakened their trust and heightened their sense of vulnerability. The extent of deception by food manufacturers and retailers worried them. Accordingly, consumers expressed a strong desire for regulations to curb the extent to which food packaging can mislead them about food provenance or origin, beyond labelling and textual information.

However, we believe that consumer confidence is likely to at least increase as some information that consumers want will be provided. Survey analysis done by the European Commission indicates consumer's interest for origin information. They found that 48% of responses from Member States selected country of origin when asked what "aspects do you look for when you buy fresh meat/meat products/non-prepacked meat/prepacked meat?" It is therefore reasonable to assume that the provision of this information could potentially increase consumer confidence.

Since it is difficult to make consumers fully aware of rule changes, it is difficult at the moment to identify and monetise the impact on consumer confidence and the associated benefits that rule changes have for all consumers. We will seek to bridge evidence gaps during the consultation stage and gather information using FSS social media.

Consultation Question 2:

Are you aware of any information that can improve our evidence on the impacts to consumers from country of origin labelling?

Industry

The benefits to FBOs include benefits to local suppliers arising from more demand for local products that become more transparent as a result of the regulation.

Benefits to FBOs from Country of Origin labelling requirements

Increased consumer confidence in labelling of unprocessed meat products could mean local suppliers benefit from increased sales of unprocessed meat. Businesses in EU member states may respond to mandatory country of origin labelling (CoOL) by sourcing more of their animals and meat domestically rather than relying on imports. This could potentially result in a positive benefit for Scottish FBOs.

We currently do not have evidence on the change in exports associated with better labelling of unprocessed meats in the EU (specifically the UK), and as it is an indirect benefit of the Regulation it was not proportionate to estimate this impact. The European Commission in its Impact Assessment details potential benefit to EU exports but it is not clear what assumptions were used to derive these figures and therefore this BRIA does not use these calculations or monetise these potential benefits. We have also not been able to find quantitative evidence on whether country of origin labelling does actually result in more domestic meat purchases.

A report by Oxford Evidentia commissioned by the Food Standards Agency (FSA) (2010) provides qualitative support on benefits to local producers, based on a review of collated FSA commissioned sources.

The Oxford Evidentia review synthesises findings from other studies, including: the BMRB Citizens Forum report and the Ipsos MORI study. The key findings from the various sources are:

- Freshness was seen as more likely to be assured by information indicating local or near-local production and distribution of produce. This is also corroborated by the Ipsos MORI and the BMRB studies, which identified a link between the perceived freshness and local origin of food products.
- Findings from the NatCen (2010) omnibus survey also support this. Of the consumers who indicated they look out for CoOL 52% of total were asked why they did so. The most frequently cited reason was a preference to buy British/support British farmers (34%). Locality was the next most frequent (in relation to food miles (17%) and preference for buying local (17%)) (FSA, 2010).
- The Citizen's Forums study (Stockley and Hunter, 2010 as cited in FSA 2010) found that British consumers may also use CoOL in part to trace the origins of food products. This is because of a desire to buy British and local produce as long as they could afford to do so, and because they "believed that if the food travelled less distance from the farm to their table then it was likely to be fresher" (Stockley and Hunter, 2010:24 as cited in FSA 2010).
- An Ipsos MORI study found that labels with local designations had "the conjecture of quality being inherent in 'local'... from a widely held assumption that local products are the freshest, contain fewer preservatives, are farmed more ethically" (Enright, Good and Williams, 2010: 31 as cited in FSA 2010).

This is further supported by evidence from Institute of Grocery Distribution (IGD), which found that nearly eight in 10 shoppers (78%) in 2013 say they would now buy British food if available – compared with 55% in 2007.

Consultation Question 3:

Are you aware of any information that can improve our evidence on the impacts to FBOs from country of origin labelling?

Environment

This section considers environmental impacts in terms of changes in greenhouse gas emissions.

Greenhouse gas emissions

The introduction of mandatory country of origin information is expected to have little impact on greenhouse gas emissions if total demand for unprocessed meat is largely unaffected.

By providing more detail on the country of origin of meat, consumers may favour domestically sourced food or even actively refuse products from some other countries. If businesses respond by sourcing more animals domestically, the mandatory country of origin Regulation may reduce carbon emissions associated with transporting live animals and final products. However estimates of the impacts of this are difficult to ascertain and are likely to be limited as most intra-EU trade is done between neighbouring countries where the distances are often shorter than inside some other Member States. The impact on greenhouse gas emissions has therefore not been calculated due to the uncertainty around the impact and the high likelihood that this impact will be negligible.

Consultation Question 4:

Are the assumptions above reasonable? Are you aware of other environmental impacts, with information that may provide quantitative estimates of the impact on the environment?

- COSTS**

Option 1

Do nothing. The main cost for this option would be to Government arising from possible infraction proceedings and consequent fines due to non-enforcement of the EU Regulation. The minimum infraction fine that can be imposed on the UK is 9.446 million Euros.

Consumers

There would be no costs to consumers since this retains the current situation.

Industry

There would be no familiarisation costs to industry since this retains the current situation. There could be possible loss of trade with the other Member States who have implemented the Regulation.

Enforcement

There would be no familiarisation costs to Enforcement authorities since this retains the current situation.

Option 2Consumers

The costs to consumers may be relatively minor since the additional information required on labels should be readily available. Relabelling costs may be passed on to customers but these could be absorbed by producers if introduced during regular

labelling reviews. Publicity on the Food Information to Consumers Regulations has highlighted Commission work on country of origin labelling in recent years.

Industry

These would split into (a) familiarisation costs and (b) relabelling costs.

(a) Let us assume that a manager in each business required approximately 1 hour to read and become familiar with the new Regulations. The average hourly rate is up rated by 30% to take account of overheads in line with standard cost model methodology to around £25. So total costs for the 775 meat related enterprises in Scotland (previously identified in Table 1) would amount to £19,375.

(b) There are a number of drivers that can result in the need for labelling changes; legislative requirements are one of four main sources:

- change in legislation;
- marketing driven;
- product reformulation; and
- voluntary inclusion of information.

Research by Campden BRI shows that as a percentage of all the drivers contributing to re-labelling, on average 14% will arise solely from implementing new legislation. This indicates that changing labels in response to new Regulations will often be incorporated at the same time as other changes are made such as product refreshes and redesigns. Therefore in the majority of cases, labelling changes as a result of legislation do not create any substantial costs on their own, as they are implemented as part of labelling changes initiated through commercial decisions.

Table 3: Label change cost

Extent of change	Average cost (£/Stock Keeping Unit)	Trimmed mean (£/Stock Keeping Unit)
Minor change	£1,810	£1,800
Major change	£3,800	£3,300
<p>“minor” change: only text on a single face of the label and no packaging size modification is required to accommodate this.</p> <p>“major” change: text as well as layout and/or colours and/or format and/or multiple faces are affected, or packaging size modification is required.</p> <p>Trimmed mean: A trimmed mean is calculated by discarding a 5% of the lowest and the highest scores and then computing the mean of the remaining scores.</p>		

Source: Developing a framework for assessing the costs of labelling changes in the UK, Defra and Campden BRI

During the course of the public consultation we will endeavour to gather information on the numbers of products likely to require relabeling.

Costs to FBOs from changes to production process (non-monetised): If business have to make technical adjustments to their productions process, for example by needing to separate out meats from different country of origin, to comply with the regulation then there will be a cost. At this stage we are unclear regarding the scale of these costs and will seek to investigate further during the consultation stage.

Indirect impacts on the demand for unprocessed meats (non-monetised): It is unclear at this stage what the impact will be on the demand for UK produce. This could have

a positive affect according to evidence already discussing suggesting benefits of origin information to local sourcing. However, this is likely to be offset by a fall in demand from potentially higher prices as a result of the costs to FBOs from complying with the regulation. The net impact is uncertain.

Enforcement

There will be a one-off cost to local authorities (LA) from reading and familiarising themselves with the new Regulations. Let us assume that in each LA it will take one Environmental Health Officer (EHO) an hour to familiarise themselves with the new legislation and disseminate the information to other key staff.

The average hourly rate for an EHO is estimated to be £22.82¹ (including a 30% overhead uplift in accordance with the standard cost model). For the 32 LAs in Scotland, the total estimated cost is £730.

Continued verification would be carried out during routine retail label checks which are already in process.

Similar familiarisation costs would also be incurred by FSS inspectors at slaughterhouses and cutting plants. It has been estimated that 20 Meat Hygiene Inspectors (MHI) and 45 Official Veterinarians (OV) would each take one hour to familiarise themselves with the new legislation.

The average hourly cost for an MHI is £29.57 which would produce an estimated cost of £591. Similarly, for OV staff this would amount to £1757. Thus the overall FSS staff familiarisation costs would be in the order of £2350.

Continued verification would also require an update to the current FSS computer systems which could be expected to cost around £10,000.

5. Scottish Firms Impact Test

Various Scottish businesses of different sizes and from various geographical areas will be approached directly during the public consultation period to seek their views on the likely impact on their business of the changes proposed in the draft SSI. They will be requested to consider all questions posed in this partial BRIA and assess the cost estimates.

• Competition Assessment

The proposed legislation will apply to all businesses and individuals involved in the UK fresh, frozen and chilled meat trade equally, allowing them to trade across EU Member States. It should not limit the number or range of suppliers in Scotland either directly or indirectly or reduce the ability of, or incentives to, suppliers to compete. Therefore, it is not expected to have a significant impact on competition. Using the Competition and Markets Authority competition assessment framework², it has been established that the preferred policy option (Option 2) is unlikely to have any material negative impact on competition. We assert that this policy will not limit the number or

¹ Wage rate obtained from Annual Survey of Hours and Earnings 2013
<http://www.ons.gov.uk/ons/search/index.html?pageSize=50&sortBy=none&sortDirection=none&newquery=Annual+Survey+of+Hours+and+Earnings+2013+by+occupation>

Median hourly wage rate of a 'environmental health professionals' was used, £17.55, plus 30% overheads, totalling £22.82.

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284451/OFT1113.pdf The Competition and Markets Authority is now responsible for this area of work.

range of suppliers directly or indirectly nor will it limit the ability or reduce incentives of suppliers to compete vigorously.

- **Test run of business forms**

No new or additional forms will be introduced by this proposal therefore no test run need be completed.

6. Legal Aid Impact Test

The Scottish Government Access to Justice Team has confirmed that these Regulations are unlikely to have an impact on the legal aid fund.

7. Enforcement, sanctions and monitoring

- **Enforcement**

Enforcement of the Regulations in Scotland will be the responsibility of Local Authority Environmental Health Departments and Food Standards Scotland Inspectors.

- **Sanctions**

Regulation 6 of the Country of Origin of Certain Meats (Scotland) Regulations 2015 lays down that the penalty on summary conviction for an offence under these Regulations is a fine not exceeding level 5 on the standard scale.

- **Monitoring**

The effectiveness and impact of the regulations will be monitored via feedback from stakeholders, including Enforcement Agencies, as part of the ongoing policy process. FSS mechanisms for monitoring and review include; open fora, stakeholder meetings, surveys and general enquiries.

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