

---

**The Food Safety and Hygiene (England)  
Regulations 2013 (As Amended)**

---

**Post Implementation Review**

**v.2 28/02/2020**

**Foods Standards Agency**

# Contents

The Food Safety and Hygiene (England) Regulations 2013 (As Amended)	1
Post Implementation Review	1
Executive summary	3
Introduction and background	6
Scope	7
Objectives	8
Impact	9
Questions asked and collated responses	9
Consumer perspective	10
Enforcement	11
Comparison of enforcement of the legislation in EU Member States	12
Conclusion	16
Annex I	17
Annex 2. Economic analysis	18
Annex 3. Pre-Consultation Questions, Responses and Comments	24
Annex 4. Pre-Publication Consultees	31
Annex 5. Schedule 7 PIR Consultation – Summary of Questions & Responses	32

## Executive summary

The UK exited the EU on 31 January 2020. There is now a transition period until the end of 2020 while the UK and EU negotiate additional arrangements. EU law continues to apply in the UK during the transition period, including rules on food and feed.

The Food Safety and Hygiene (England) Regulations 2013 (SI 2013 No. 2996) came into force on 31 December 2013. This routine Post Implementation Review (PIR) is required as part of the Statutory Review requirements of the legislation. In order to do this, the FSA has collated evidence from key stakeholders based on their views and experiences, including on any costs and benefits arising from its implementation.

The Regulations revoked and re-enacted, in whole or in part (details indicated), the following Regulations and Orders into a single consolidated Statutory Instrument (SI):

<b>Regulation/Order</b>	<b>Revoked by Food Safety and Hygiene (England) Regulations 2013</b>
<b>The General Food Regulations 2004 (S.I. 2004/3279)</b>	Regulations 3, 4, 5, 6, 6A and 7
<b>The Food Hygiene (England) Regulations 2006 (S.I. 2006/14)</b>	The Whole Regulations
<b>The Food Hygiene (England)(Amendment) Regulations 2010 (SI 2010/534)</b>	The Whole Regulations
<b>The Food Hygiene (England)(Amendment) Regulations 2012 (SI 2012/1742)</b>	The Whole Regulations
<b>The Food (Cheese) (Emergency Control) Order 1998 (SI 1998/1277)</b>	The Whole Order

<b>Regulation/Order</b>	<b>Revoked by Food Safety and Hygiene (England) Regulations 2013</b>
<b>The Food (Cheese) (Emergency Control) (Amendment) Order 1998 (SI 1998/1284)</b>	The Whole Order
<b>- The Food (Cheese) (Emergency Control) (Amendment) Order 1998 (SI 1673)</b>	The Whole Order

The Regulations have been amended since coming into force on 31 December 2013. These amendments were (most recent first):

<b>Amending Regulation</b>	<b>Effect on Food Safety &amp; Hygiene (England) Regulations 2013</b>
<b>The Official Feed and Food Controls (England) (Miscellaneous Amendments) Regulations 2019 (SI 2019 No. 1476)</b>	Updating references to relevant EU legislation which has been revoked or replaced by Regulations (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products
<b>The Food Safety and Hygiene (England) (Amendment) Regulations 2016 (SI 2016 No. 868)</b>	Provided for the execution and enforcement of Regulations (EU) 2015/1375 on official controls for Trichinella in meat;
<b>The Food Safety and Hygiene (England) (Amendment)</b>	Update offences and penalties section;

<b>Amending Regulation</b>	<b>Effect on Food Safety &amp; Hygiene (England Regulations 2013)</b>
<b>Regulations 2014 (SI 2014 No. 2885)</b>	Make continuing provision for the labelling of raw milk intended for direct human consumption with prescribed information relating to the absence of heat treatment.
<b>The Official Feed and Food Controls (England) and the Food Safety and Hygiene (England) (Amendment) Regulations 2014 (SI 2014 No. 2748)</b>	Enforces Regulation (EU) 579/2014 by amending Schedule 1 on definitions of EU legislation; schedule 2 on specified EU provisions; and schedule 3 on bulk transport in sea going vessels of liquid oils or fats and the bulk transport by sea of raw sugar.)  Implements Regulation (EU) 218/2014 by revoking regulation 35 and schedule 8 in relation to the special health mark. <sup>1</sup>

The requirements introduced by the amending SIs are reviewed as part of this exercise.

This PIR reviews the objectives of the consolidation exercise; the extent to which those objectives have been achieved; and, whether they could be achieved by means that impose less regulatory burden. The PIR also considers evidence provided by interested parties on the effectiveness of the regulations and the extent to which they are still relevant.

A light touch review was considered proportionate for this combined PIR due to the low impact identified in the regulatory impact assessments. The FSA view is that the Regulations remain effective and fit for purpose - based on routine engagement and monitoring of UK official controls and enforcement. The level of evidence sourced is commensurate to the scale of the Regulations and associated impacts.

---

<sup>1</sup> [Impact Assessment](#)

# Introduction and background

The Food Safety and Hygiene (England) Regulations 2013, came into force on 31<sup>st</sup> December 2013, consolidating 'food hygiene' and 'food safety' provisions into a single Statutory Instrument.

The aims of the consolidation exercise were as follows:

- To introduce a simplified system of food legislation, in line with the aims of the UK Government's Red Tape Challenge (RTC) initiative<sup>2</sup>
- To rationalise and equalise the penalties and offences for food safety and for food hygiene
- To give effect to the European Commissions package of Regulations for the hygienic production of sprouts and seeds intended for sprouting to safeguard public health
- To give effect to provisions amending The Food Safety (Sampling & Qualifications) Regulations 2013 detailing the qualifications necessary to be a public analyst, food analyst or food examiner.

The FSA conducted a formal 6-week public consultation from 02 September 2013 to 14 October 2013, seeking comments on the draft 2013 statutory instrument and the changes in sanctions and powers. (Further consultation was carried out in relation to the amending regulations).

The consultation was published on the FSA website and stakeholders were emailed with the link to the site. Stakeholders contacted included major industry organisations, organisations representing local authority enforcers and the not-for-profit sector – 15 responses were received. Impact assessment<sup>3</sup> accompanied the

---

<sup>2</sup> A programme undertaken by the 2010 Coalition Government that offered businesses and the general public the opportunity to challenge the Government on regulation.

<sup>3</sup> [Impact assessment](#)

consultation, asking stakeholders to comment on the FSA's preliminary analysis of the costs and/or benefits of:

- The consolidation of the national food safety and food hygiene law; and
- The new hygiene regulations for seeds and seed for sprouting sector.

No significant impacts were identified as a result of the consolidation, including the rationalisation of the offences and penalties.

## Scope

As part of the Government's commitment to review provisions in secondary legislation that regulate businesses, the 2013 Regulations, and each of the three subsequent amending Regulations, require the FSA to undertake statutory review and set out the conclusions in a report within five years of the measure coming into force.

A combined, light-touch, review was considered proportionate for these SIs, reflecting the low impact identified in the regulatory impact assessments and the FSA's view on the continued need and effectiveness of the Regulations.

The bulk of the 2013 Regulations is concerned with providing enforcement provisions for directly applicable EU legislation. This legislation has been routinely considered and updated by the EU Commission - with input and agreement from the UK whilst an EU Member State (and the then other Member States) and has been given effect in the UK through ambulatory reference. The requirements which the SI enforces are all considered to remain necessary for the protection of public health and consumers' interests.

The 2013 Regulations also provides Schedules<sup>4</sup>, some of which contain national law providing requirements for businesses for the following areas:

- Bulk transport in sea-going vessels of liquid oils or fats and the bulk transport by sea of raw sugar (Schedule 3)
- Temperature control requirements (Schedule 4)
- Direct supply by the producer of small quantities of meat from poultry or lagomorphs slaughtered on the farm (Schedule 5)
- Restrictions on the sale of raw milk intended for direct human consumption (Schedule 6)
- Derogations relating to low throughput establishments (Schedule 7)

It should be noted that the Regulations were recently reviewed in order to fix inoperability's arising from the UK leaving the EU, once the transition period ends. This is outside the scope of the PIR.

## Objectives

The PIR considers whether the objectives of the 2013 Regulations (as amended) have been achieved, and whether they could be achieved by means that impose less regulatory burden. The Review also considers evidence provided by interested parties on the effectiveness of the regulations and the extent to which they remain relevant.

The PIR also reviews the offences and penalties in the 2013 Regulations (as amended) and specifically the inclusion of criminal offences, in line with the FSA's commitment to reduce reliance on criminal sanctions.

---

<sup>4</sup> The Schedules also covered 'Definitions of EU legislation', 'Specified EU provisions' and 'Revocations'. The 'Special Health Mark' (Schedule 8) was revoked by SI 2014/2078)



Stakeholder views, in addition to those provided during the initial exploration with key stakeholders, are now sought via public consultation.

## **Impact**

No significant impacts were identified by the FSA when undertaking the consolidation and no significant impacts were highlighted by respondents during the formal consultation in 2013, or during the consultations of the amending Regulations. No significant impacts have since been identified during this review of the regulations, including comments received through our engagement with key stakeholders.

It was anticipated that stakeholders should benefit from having all the rules on food safety and food hygiene contained in a single SI, instead of having to refer to separate domestic Regulations. This assumption was supported by comments made by respondents to the initial consultation. The Amendment regulations have reduced the benefits of the 2013 consolidated safety and hygiene regulation, but the FSA does not consider it necessary to carry out a further consolidation of these regulations at the present time. We would welcome any views in relation to this view.

Annex 2 contains the evidence base forming the 'Economic Analysis' undertaken. In summary this review determines that no substantial costs to businesses, enforcement bodies or consumers have been sighted. The post-implementation economic analysis identifies an overall saving of the consolidation exercise far in excess of the original forecasted figure identified in the FSA IA produced at the time.

## **Questions asked and collated responses**

In the development of this report, an informal consultation was carried out by the FSA which included Industry, Consumer and Central and Local Government stakeholders. Five responses were received. The questions asked, and the responses received are detailed in Annex 3.

## Consumer perspective

Consumers rarely engage directly on the technical/legal requirements, for food safety and hygiene, as they do not have the specialist knowledge required to make informed decisions about the appropriateness of regulatory requirements.

Consumers generally want confirmation that there is comprehensive legislation in place to protect consumer health regarding food hygiene and safety issues. There is little distinction made between national and European legislation when issues are raised by consumers.

The FSA carries out extensive routine consumer engagement with stakeholders (via surveys, research, etc.) to understand consumers' concerns and interests in relation to food, to best represent these in our approach to the development and delivery of regulatory requirements. The FSA also has a dedicated food hygiene policy electronic mailbox for queries from consumers and industry from which it is possible to draw out consumers' views. Questions from consumers are commonly on the safety of certain practices, particularly those that have received media attention.

The FSA publishes the results of its public attitudes tracker which has been running on a bi-annual basis since 2010. The findings are based on 2,150 interviews from a representative sample of adults aged 16 and over across England, Wales and Northern Ireland. Questions cover several topics of interest for the Agency, including concern about food safety issues, awareness of food hygiene standards, awareness of the FSA and its responsibilities, trust in the FSA and the food industry, and confidence in food labelling. At Wave 18 (May 2019), a new set of questions were added to monitor trust in the FSA and the wider food system. Some of the key and relevant findings are given below:

- The top food safety issue of concern was 'Food Hygiene when Eating Out'
- 62% of respondents said that they thought the food system was regulated fairly
- Reported concern has continued to decrease slightly over time, indicating a general decline in concern about food safety in UK food outlets

No consumer responses were received in relation to the Consolidated SI or in preparation of this PIR; we would welcome any consumer views in response to this consultation.

## **Enforcement**

In England, the 2013 consolidation exercise reduced the number of enforcement authority powers of entry (from 4 to 3); the number of offences was reduced (subsuming specific offences into a more general breach of EU requirements); and fines rationalised to realise reduction of burden on FBOs and provide consistency of approach.

The Regulations provide default provisions so that enforcement action can be correctly directed and provides a statutory defence of due diligence to protect responsible FBOs. There is also a right of appeal to the magistrates' court and where appropriate the Crown Court.

Criminal sanctions for food and feed offences are always an action of last resort by local authority food enforcement officers, or where food business operator behaviour or offences are considered severe enough to warrant criminal prosecution.

Authorised officers are required to have regard to a hierarchy of enforcement when dealing with non-compliance and, subject to the severity of the offence, their first course of action is to seek compliance through education and information, moving to issuing an improvement notice where this approach does not lead to a change in business behaviour.

As part of the FSA policy development for the Official Feed and Food Controls (England) (Miscellaneous Amendments) Regulations 2019, the General Food and Meat Hygiene Policy teams carried out a review of the Food Safety and Hygiene (England) Regulations 2013 in-line with obligations to UK Ministers to reduce the reliance on criminal sanctions in England.

The purpose of this review was to identify whether criminal sanctions could be reduced and whether there were gaps in the enforcement hierarchy. Engagement was carried out with LA officers, via the Food Hygiene and Food Standards Focus

Groups (FH/FSFG), to consider proposals identified as possible options to meet the FSAs obligations. The focus groups provided valuable feedback identifying opportunities and issues of concern. Based on the evidence provided by LAs it was decided that further consideration of proposals is required and is being considered as part of a wider review of regulatory enforcement and sanctions to address non-compliance with food and feed law.

## **Comparison of enforcement of the legislation in EU Member States**

In England (as well as Scotland, Wales and Northern Ireland) EU harmonised legislation is enforced by means of Statutory Instruments which provide penalties and enforcement powers for infringements. We reviewed current and past FSA commissioned research materials concerning the delivery of 'Official Food & Feed Controls' across the EU in order to assess major disparities in enforcement of the EU legislation. In reviewing available materials, we have established that the approach to enforcement is consistent in that:

- Members States (MS) either deliver this EU legislation centrally or as in the UK across a network of Central and Local Government departments
- Approaches to enforcement are reasonably consistent across MS – in utilising risk-based intervention frequencies; using similar staged enforcement systems – advice, issuing formal notices and prosecution as necessary. Two MS (Denmark and France), are also currently using on the spot fines or similar for infringements
- Approval/registration of Food Business Operators (FBOs) is similar across MS with most using on-line registration facilities and allowing operation of registered FBO's before the first inspection
- Powers of entry and authorised officer requirements are also reasonably consistent across MS.

We do not believe there is any evidence of unnecessary or disproportionate burdens in the enforcement of the EU regulations in England. We welcome stakeholders' comments on this.

Schedule 3 to the Regulations allows for the bulk transport of raw sugar in receptacles, containers or tankers which are not exclusively used for foodstuffs provided hygiene requirements are observed. This offers a practical and flexible approach for bulk transporters to conduct their undertakings in an efficient manner.

Schedule 4 to the Regulations concern temperature control requirements in relation to the hygiene and safety of foods, concerning:

- Chill holding and general exemptions from requirements, upward variation and tolerance periods all of which ensure food safety whilst accepting the practicalities of food transport, storage, delivery and display.
- Hot holding including defences for non-compliance.

This schedule provides benefit to small and micro food businesses who can rely on the stated requirements rather than undertaking their own scientific food safety assessments in relation to temperature control. There is also flexibility to allow deviation where the FBO has well-founded scientific assessment of the safety of the food at temperatures used.

Schedule 5 to the Regulations provides FBOs with flexibility in relation to the direct supply of small quantities of meat from poultry and lagomorphs slaughtered on the farm.

Schedule 6 to the Regulations provide restrictions on the sale of raw milk intended for direct human consumption, this schedule allows for this practice whilst ensuring that scientifically evidence-based controls are in place to improve food hygiene and safety.

Schedule 7 to the Regulations concerns historical derogations granted to certain low throughput slaughterhouses. These derogations make provisions for smaller slaughterhouses licensed before 31 December 2005 with lesser facilities to be compliant through meeting equivalent safety standards. The derogations concern the

provision of detained-meat facilities, and cleaning, washing and disinfection facilities for livestock vehicles. Post Implementation Reviews<sup>5</sup> of these two derogations were undertaken in 2017, responses received at this point led to the conclusion that the small percentage of the Industry sector using these derogations depended upon them to operate economically, the controls around the derogations are sufficient and therefore at this point should not be changed. Annex 5. summarises the questions asked, and responses received.

The principles and requirements of EU general food safety law are set out in Regulation (EC) 178/2002 and the requirements of microbiological food safety in the EU food hygiene regulations<sup>6</sup>. Regulation (EC) 178/2002 establishes and requires that: -

- 'unsafe'<sup>7</sup> food must not be placed on the market;
- suitable and accurate information must be provided to consumers;
- there must be traceability of food; in that food businesses must be able to identify any supplier or consignee; and
- food businesses must both inform the competent authorities and immediately withdraw food from the market if they have a reason to believe that their food is not safe.

---

<sup>5</sup> [Post Implementation Reviews](#)

<sup>6</sup> The basic EU food hygiene regulations are Regulation (EC) 852/2004 which lays down general food hygiene rules for all food businesses; Regulation (EC) 853/2004 which lays down specific hygiene rules for products of animal origin; Regulation (EC) 2073/2005 which lays down microbiological criteria for foodstuffs and Regulation (EC) 2075/2005 laying down specific rules on official controls for *Trichinella* in meat. There are a number of other Regulations which amend, implement or provide derogations from these Regulations and some standalone Regulations.

<sup>7</sup> The definition of 'unsafe' is set out at Article 14 and means both 'injurious to health' and 'unfit for human consumption'.

The EU food hygiene regulations place requirements on food businesses to produce and handle food safely. They also place requirements on competent authorities<sup>8</sup> .

The regulations include the following requirements:

- registration or approval with the competent authority depending on the food business establishment's activities;
- food safety procedures based on HACCP principles<sup>9</sup> ;
- food safety rules on foodstuffs, premises, equipment, transport and food handler hygiene and training throughout the food chain, starting with primary production (e.g. fishing and farming);
- application of basic common hygiene requirements, with specific rules for the manufacture of products of animal origin and
- details of competent authority responsibilities in certain areas.

At the 2013 consolidation, consideration was given to replacing The General Food Regulation 2004 (as amended) and The Food Hygiene (England) Regulations 2006 (as amended) with guidance. This option was rejected because, both European treaty obligations and the EU Regulations themselves require the UK to ensure that directly applicable EU regulations covering food safety and food hygiene can be enforced in all parts of the UK. Guidance would not have had any legal authority to enable enforcement action to be taken against non-compliant businesses. This would have resulted in the following concerns:

---

<sup>8</sup> The 'competent authority' in the UK will be the local authority in all cases except establishments where the FSA has a veterinary presence, or where the FSA has a central role to play such as general oversight of enforcement, dissemination of information or liaison with the European Commission.

<sup>9</sup> HACCP-based principles are not required for farming activities but procedures giving consideration to food safety hazards in farming are still required.

- The potential for sale or supply of unsafe food and/or the provision of misleading information about food being supplied, impacting disproportionately against vulnerable groups such as the elderly or persons with long-term health problems.
- Adverse impact on food businesses that are compliant and therefore put at a disadvantage. Potential damage to the market by reducing consumer confidence in the food sector.
- Concern regarding UK food businesses being prevented from selling products to food businesses located in EU Member States.

## Conclusion

Our analysis is that the consolidated SI continues to deliver reduced administrative burdens through the simplified presentation of consolidating Food Safety and Food Hygiene provisions. Accepting there are now 3 amending SIs; at present the FSA does not perceive a significant benefit in pursuing a further consolidation. The SI has the main function of implementing the enforcement of directly applicable EU regulations and our view is that this remains necessary, fully effective and fit for purpose. A further review of the regulations should be carried out, at an appropriate time following the conclusion of the Transition Period.

To date, we have received no stakeholder responses representing alternative or contrasting views on this legislation. Stakeholder responses received have supported the FSA view and provided supporting evidence that The Food Safety and Hygiene (England) Regulations 2013 are helpful in combining Food Safety and Food Hygiene controls and the system has become more simplified.



# Annex I

## Questions for consultation

Q1. Do you agree with the view that the consolidated SI created a simplified system?  
Please explain your response with evidence where possible

Q2. How significantly do you feel the subsequent amendments to the consolidated SI reduced the benefits of the original consolidation?

Q3. Do you agree with the view, that there were no significant impacts resulting from the consolidated SI? Please explain your response with evidence where possible.

Q4. Do you agree with the FSA conclusion that the consolidated SI remains effective and relevant in meeting the intended objectives? Please explain your response with evidence where possible.

Q5. Do you agree with the FSA conclusion that there is no evidence of unnecessary or disproportionate burdens in the enforcement of the EU regulations in England?

Q6. We would welcome any additional comments or views in relation to the consolidated SI or the proportionality of this PIR? Please explain your response with evidence where possible.

Q7: Do you have any views on the use of sanctions generally, or the inclusion of criminal sanctions, in The Food Hygiene and Safety (England) Regulations 2013. Please explain your response with evidence where possible.

## **Annex 2. Economic analysis**

### **Evidence base**

Implementation of Option 2 - Consolidation of The General Food Hygiene Regulations 2004 (as amended) and The Food Hygiene (England) Regulations 2006 (as amended).

The economic analysis of the post implementation review analyses actual recorded data over an 8-year period from 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2019 in determining an economic cost/benefit analysis. Whereas, the impact assessment for implementation of option 2 i.e. consolidation of regulations uses estimated data covering the period from 2011 i.e. 1 year before consolidation to the year 2021, which is over a ten-year period.

### **Costs to industry- familiarisation costs**

The consolidation of The General Food Hygiene Regulations 2004 (as amended) and The Food Hygiene (England) Regulations 2006 (as amended) into the FSH regulations 2013 did not change any of the requirements on food businesses and therefore the associated familiarisation costs to industry are assumed to have been negligible as originally forecasted.

### **Costs to enforcement - familiarisation costs**

Similarly, the consolidation into the FSH regulations 2013 did not change any of the requirements on food businesses and therefore it is assumed that the associated familiarisation costs to enforcement teams are also assumed to have been negligible as originally forecasted.

### **Costs to consumers**

The costs to consumers are not easily quantified. However, it is our assumption that these have been negligible as originally forecasted.

## **Benefits to industry - reduced familiarisation time for new entrants into the sector**

Simplification benefits to industry as a result of the consolidation of national food legislation are not easily quantified. However, post implementation concerns from new entrants arising from consolidation have not been registered. It is therefore assumed that familiarisation with one single principal statutory instrument instead of the two original regulations and several amending instruments has benefited the industry.

The original impact assessment analysis of historical data on new entrants into the sector showed that, over the period from 2011-2012, the average number of new business entering the sector was 6,700 per annum. Data on new entrants post implementation is not readily available. However, data of total number of food establishments is available.

**Table 1: Summary of total number of food establishments in England)**

	2011/2 012	2012/2 013	2013/2 014	2014/2 015	2015/2 016	2016/2 017	2017/2 018	2018/2 019	Total
<b>Total no. of establishments in England</b>	367,406	375,663	508,630	512,704	517,171	517,686	515,471	568,324	
<b>Difference compared to 2012/2013</b>			132,967	137,041	141,508	142,023	139,808	192,661	886,008

An analysis of Table 1 shows a significant increase in the number of food establishments in the period covering 1<sup>st</sup> April 2013 to 31<sup>st</sup> March 2014. Assuming this increase is due to new entrants to the food sector we can assume that since implementation to 31<sup>st</sup> March 2019, there have been 886,008 new entrants as a result of consolidation.

Taking forward the original methodology used to calculate the benefit to industry i.e. to assume that it takes one manager per business one hour to read and familiarise themselves with the legislation and that before consolidation this was two hours per business.

Using the methodology used in the impact assessment for monetising this benefit as a time saving, i.e. by multiplying the time saved per officer by the wage rate of the business manager (£26.1011) and then again by the number of new entrants into the sector per annum (6,700). This generated a total time saving per annum to industry of £174,870 in the impact assessment. However, using the same wage rate (£26.1011) multiplied by the total assumed new entrants since 2012 a total saving of £23,125,786 to industry can be determined. This is an average saving per year to the industry of £3,854,298.<sup>10</sup>

---

<sup>10</sup> [Annual Survey of Hours and Earnings Source Wage rate](#)

Benefits to Enforcement - Reduced familiarisation time for new entrants into the sector

It was originally assumed that there may be simplification benefits to enforcement officers as a result of the consolidation of national food legislation. As with benefits to industry any local authority officer taking up employment in the sector would have to familiarise themselves with just a single principal statutory instrument instead of two and a number of amending instruments.

The original impact assessment indicated that the total number of officers had decreased over previous years but had not advised the total number. It was assumed at the time that this would be representative of the sector in the future. An analysis of current enforcement officers has shown that on average over the past three years there have been 1258.43 officers in post in England. As previous data is not available this benefit has not been monetised and we are therefore not able to compare the level of benefit with the original impact assessment.

**Table 2: Summary of Full Time Equivalent local authority officers in England.**  
(Source LAEMS – UK food hygiene data)

	2011/2 012	2012/2 013	2013/2 014	2014/2 015	2015/2 016	2016/2 017	2017/2 018	2018/2 019	Average
<b>Total no. of FTE local authority officers in England</b>	1998					1275.0 2	1245.2 3	1255.0 4	1258.43

## Benefits to consumers

It was envisaged that the consolidation would not result in any substantial benefits to consumers. We are not able review whether consolidation of the regulations has had an impact on consumers.

## Summary of total costs and benefits of consolidation

No substantial costs to businesses, enforcement or consumers had been envisaged in the original impact assessment. It was also envisaged the consolidation of the national food legislation into one statutory instrument would generate benefits to businesses and enforcement teams in terms of time saving to new entrants into the sector. The original impact assessment calculated an indicative estimate of an annual time saving to industry of £174,870 with an estimated value of £1.5m over a ten-year period. It was therefore the assumption that the consolidation would have a net beneficial impact.

**Table 3: Summary of estimated total benefits (Impact Assessment)**

	Year 0 2011/ 2012	Year 1 2012/ 2013	Year 2 2013/ 2014	Year 3 2014/ 2015	Year 4 2015/ 2016	Year 5 2016/ 2017	Year 6 2017/ 2018	Year 7 2018/ 2019	Year 8 2019/ 2020	Year 9 2020/2 021	Total
Time Saving	£174, 870	£174, 870	£174, 870	£174, 870	£174, 870	£174, 870	£174, 870	£174, 870	£174, 870	£174,8 70	£1,748,7 00

**Table 4: Summary of actual calculated total benefits (Post consolidation)**

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Total
	2011/ 2012	2012/ 2013	2013/ 2014	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018	2018/ 2019	2019/ 2020	2020/ 2021	
Time Saving			£3,47 0,584	£3,57 6,921	£3,69 6,514	£3,70 6,957	£3,64 9,143	£5,02 8,664			£23,125,7 86

The post implementation review can confirm that no substantial costs to businesses, enforcement or consumers have been sighted.

Although the monetisation of the benefits attained from consolidation of national food legislation into one statutory instrument may be subject to interpretation. We can confirm that new entrants and enforcement teams have benefitted. This is shown in the increase in the number of food establishments recorded since 2013.

The post implementation economic analysis suggests that up to March 2019 a total saving of £23,125,786 can be assumed, which is substantially greater than the original forecast of £1,748,700. An 87% increase on the estimated figure.

The increase in the number of food establishments can be attributed to the increase in the number of small sized food businesses.

## Annex 3. Pre-Consultation Questions, Responses and Comments

No.	Question	Response	FSA Comment
1	To what extent do you feel that these Regulations are achieving their intended objective in relation to the requirements for food businesses to supply safe food, for the traceability of food and for appropriate information on food for consumers?	I think they are achieving their intended objective	
1.a	To what extent do you feel that these Regulations are achieving their intended objective in relation to the requirements for food businesses to supply safe food, to consumers?	I feel the two tier system in the UK with FSA inspection of meat plants and LA inspections of all other food business – causes a big divided in compliance between meat plants, the FSA auditors audit a lot closer the regulations and appear to have a better understanding than EHO's who are very under resourced and do not have such a good	Noted – all LA officers are required to achieve competence and demonstrate this continually through appropriate CPPD.



No.	Question	Response	FSA Comment
		understanding of the regulations.	
2	Do the regulations enable you to take the necessary enforcement actions to protect consumers? If there are deficiencies, please provide evidence.	To a certain extent they enable necessary enforcement actions to be taken but I would suggest that the use of RAN's for non-approved premises be extended as these provide an alternative mechanism for dealing with deficiencies.	Unable to review policy as part of this process however official controls are currently being reviewed under other streams of work being undertaken within the FSA and EU level.
3.	Can you give examples of where the Regulations are providing benefits or set any overly burdensome obligations on businesses, including SMEs? If yes please elaborate.		
4	Are the powers of entry provided by the Regulation sufficient? Do you have evidence of any specific challenges/problems with entry powers?	Yes	

No.	Question	Response	FSA Comment
5	Are the offences sufficient to ensure protection of consumers? Please provide evidence where you feel this is not the case.	Yes	
6	Has the rationalisation / equalisation of fines for 178/2002 offences with 852/2004 and 853/2004 offences (of general food safety and food hygiene offences) had any impact on prosecutions or how you prepare them? Have there been any consequences of this new system of fines?	No consequence	
		Nothing measurable but will make it easier to explain penalties and consequences to food penalties and easier for courts to apply rarely used legislation.	
7	Have there been any unintended consequences of the legislation such as costs/burdens or benefits which were not highlighted in the Impact Assessment? If yes, please elaborate.	Not that I am aware of	
8	In the Impact Assessment we assumed that as the consolidation exercise did not introduce any new requirements, there would not be any significant impact	Yes	

No.	Question	Response	FSA Comment
	on costs associated with familiarisation. Was this assumption correct		
<b>8.b.</b>	In the Impact Assessment we assumed that one official per business would have invested 60 minutes reading and familiarising themselves with the Regulation. Does this assessment of the familiarisation time reflect your experience? Please provide evidence where available to support your response		
<b>9</b>	Are there any other one-off or ongoing costs/ benefits to local authorities as a direct result of the Regulations that should have been considered? Please provide evidence where available to support your response	Not sure	
<b>9.b</b>	Are you aware of any other one-off or ongoing industry costs/benefits as a direct result of the Regulations that were not identified in our Impact Assessment? Please		

No.	Question	Response	FSA Comment
	provide evidence where available to support your response		
10	Has the consolidation of food safety and food hygiene regulations resulted in any positive or negative impacts (e.g. are they easier to use or have they become less clear as a result of the consolidation etc.)? If possible please provide examples or other evidence to support your view.	<p>Neutral</p> <p>I am not sure the general public even know about these regulations even before or after the joining of the reg's.</p> <p>It also strongly possible that even Small and Medium size food business know of the regs .</p> <p>Not aware of any difficulties, it is obviously easier for food businesses and enforcement authorities to have reference to just one piece of principal (with the caveat that very technical legislation needs to exist for specific goods e.g. jam composition and shellfish) legislation. We</p>	

No.	Question	Response	FSA Comment
		are not aware of any measurable benefits.	
		Not significantly	
<b>10.b</b>	How does the implementation of the EU Regulations in the UK compare with other Member States? Does the UK's implementation lead to increased costs or benefits for UK businesses? Please provide evidence where available to support your response		
<b>11</b>	Are you aware of any issues arising from England having had a consolidated SI and so pursuing different legal arrangements to Scotland, Wales and Northern Ireland? If so can you please give examples of this.	<p>Not aware of any issues</p> <p>I am not sure the general public even know about these regulations even before or after the joining of the reg's.</p> <p>It also strongly possible that even Small and Medium size food business know of the regs .</p>	

No.	Question	Response	FSA Comment
		It makes it more challenging for a national co-ordination group such as FHFG to issue tailored guidance or create case studies because of all the different permutations of legislation have to be cited and accounted for.	Noted
12	Do you have any further comments, evidence or information of relevance to this review?	No. I wasn't aware that this PIR had been circulated – maybe it needs circulating again.	
		No	
		BMPA members in general do not have any serious issues with the consolidation	

# **Annex 4. Pre-Publication Consultees**

## **Enforcement Authorities**

Local Authority Knowledge Hub – Food Hygiene Forum Group

Local Authority Knowledge Hub – Food Standards & Labelling Group

West Norfolk

## **Industry**

Food & Drink Federation

British Retail Consortium

British Meat Producers Association

## **Consumer**

Which Magazine

Independent Food Consultant/Auditor (name withheld)

# **Annex 5. Schedule 7 PIR Consultation – Summary of Questions & Responses**

## **Question Topics**

To what extent is the existing exemption working?

Is the exemption still needed?

Is the current exemption from the detained meat facilities/requirement for facilities for cleansing & disinfection of livestock vehicles - still the most appropriate approach?

If the exemption in the regulation is still needed, could it be improved?

## **Responses received**

Generic responses received from Industry bodies provided the following feedback:

- Detention facilities – not aware of provision to have separate facilities is being used. Advised that no problems with detention have come to light. Businesses taking advantage of the exemption would not be viable were they removed, forcing closure and loss of small ‘local’ slaughtering facilities, affecting ability for local farmers to utilise and impact on transport/welfare matters.
- General comment – better to not consider changing the exemption while the EU Exit situation is still to be finalised and future legislative landscape unclear.
- General comment - wish to see the exemption for low throughput establishments maintained. Farmers will be supplying these businesses with prime livestock so we would not wish to see additional costs placed on these low throughput abattoirs that would threaten their commercial viability



## Background

It is estimated that a maximum of 19 'low throughput' establishments utilise the derogation in relation to detained meat facilities. Lack of space was identified as the main obstacle to providing such facilities – therefore without the exemption the FBO would need to rent/build new premises, potentially in a different geographical location.

It is estimated that less than 4 'low throughput' establishments utilise the derogation in relation to facilities for the cleansing and disinfection of livestock vehicles. Again, available space was identified as the main obstacle for providing such facilities – therefore without the exemption the FBO would need to rent/build new premises, potentially in a different geographical location.