

Post Implementation Review of the Olive Oil Marketing Standards Regulations 2014 SI 2014/195

March 2021

1. Introduction

This document provides an overview of the Post Implementation Review (PIR) of the Olive Oil Marketing Standards Regulations 2014. This regulation provides the legislative basis for the compliance regime for implementing retained EU regulations 29/2012 Marketing Standards for Olive Oil and 2568/91 Characteristics of olive oil and olive residue oil and the relevant methods of analysis.

This statutory instrument (SI) provides powers to enforce, within the UK, new and amended regulations on marketing standards for olive oil.

The retained EU regulations detail the characteristics of the different categories of olive oil, enabling the consumer to distinguish between these categories, including the higher value extra virgin unrefined products and the lower value refined oils. They also detail the methods of analysis to determine the characteristics of the oil and specify mandatory and optional labelling requirements. These include the conditions under which optional terms may be used on the label to describe the taste and smell of extra virgin and virgin olive oil.

2. Background

In late 2011 various articles were published in the UK which questioned the authenticity of EU produced olive oil, suggesting widespread adulteration with cheaper oils. In response to this negative publicity, as well as to meet the challenge of competition from third country producers and to deal with structural problems within the sector, the European Commission produced an Action Plan to improve the reputation of EU produced olive oil.

The Action Plan made recommendations, including enhanced controls which were adopted in amendments to existing regulations.

The main changes were (i) The introduction of an annual sampling requirement based on the amount of olive oil marketed in the UK, and (ii) A new provision requiring operators, up to the bottling stage, to keep entry and withdrawal registers of each category of olive oil held.

In order to take account of these changes and update enforcement arrangements in line with best practice, the 2014 SI was introduced and replaced previous instruments, in particular the Olive Oil (Marketing Standards) Regulations 2003 (SI 2003/2577) (as amended) and the Olive Oil (Marketing Standards) Regulations (Northern Ireland) 2008 (SR (NI) 2008 No 189).

EU Regulations which set out the marketing standards for olive oil have been retained, with minor technical amendments, and are fully operable at the end of the Transition Period.

3. Objectives of the Regulation

The objective in the UK has been to protect consumers from misdescribed and adulterated olive oil products through a light touch, proportionate and risk-based compliance mechanism, while meeting our legal obligations.

The regulation:

Provides powers to allow for effective inspections, sampling and enforcement;

Provides for penalties and specifies an appeals mechanism; and

Specifies detailed requirements for the entry and withdrawal registers which all operators up to the bottling stage must keep for each category of olive oil they hold.

4. Scope of the PIR

The Secretary of State is under a duty to review the implementation and enforcement of this SI in England, in accordance with regulation 19. In particular, the review must consider whether the objectives of the SI have been met and the continuing relevance of the objectives.

5. Analysis

The PIR addressed three overarching research questions:

- a. Has the policy successfully achieved its objectives? Do stakeholders agree with the objectives? Do the objectives support traders in the UK?
- b. Were there any unintended consequences or costs from the regulation (i.e. the SI)?
- c. Could we revise the regulation (SI) to reduce the costs to business?

The review has been based on ongoing feedback from stakeholders, a questionnaire sent to 85 stakeholders and views from the delivery bodies (APHA and the Food Standards Agency).

Supermarkets, wholesalers, retailers, importers and bottlers were invited to give their views. The review includes responses from the very largest bottlers and importers holding the majority of market share, through to the smallest artisan producers who bottle their own oil and import into the UK. Consumers have not been specifically consulted, however, as consumer confidence in olive oil is vital to the success of the sector, consumer and trader interests are well aligned.

6. Next Steps

The olive oil marketing standards are non-controversial and have an economic impact below £5 million.

Defra and enforcement colleagues in APHA will collaborate to action the recommendations of the PIR.

Post implementation review

Title: The Olive Oil (Marketing Standards) Regulations 2014 PIR No: Defra Original IA/RPC No: Defra 1058 Lead department or agency: Defra Other departments or agencies: N/A Contact for enquiries: Robert.Beechener@defra.gov.uk	Post Implementation Review
	Date: 01/08/2020
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 01/03/2014
	Recommendation: Keep

1. What were the policy objectives of the measure?

To introduce effective control measures that would protect consumers from misdescribed and adulterated olive oil products through a light touch, proportionate and risk-based compliance mechanism.

The regulation introduced an annual sampling exercise, and requirements for operators to maintain an entry and withdrawal register up to the bottling stage and for the UK to meet legal obligations to enforce the amended EU olive oil marketing standards.

2. What evidence has informed the PIR?

The PIR relates only to England.

A survey questionnaire was emailed to 85 stakeholders in February 2020 asking a number of standard questions about the regulation. 8 replies were received, including from stakeholders holding the vast majority of market share. Profiling of the bottling sector shows 95% of market share held by the top ranked trader. The modest response rate to the PIR questionnaire is consistent with the response to the public consultation on enforcement arrangements for olive oil Marketing Standards conducted 25 October - 22 November 2013 which received 7 replies.

We have also taken account of ongoing feedback and communication from stakeholders and the views of the delivery body (APHA) and the Food Standards Agency.

3. To what extent have the policy objectives been achieved?

The annual sampling programme for olive oil has worked effectively and is widely recognised as having raised standards in the quality of olive oil available to consumers. Five out of eight respondents to the questionnaire rated the policy as successful in achieving its objectives.

Risk based sampling ensures resources are targeted efficiently and consumer protection is maintained with an effective deterrent against fraud in the olive oil sector.

Within the industry there is now widespread knowledge of the quality and labelling requirements for olive oil. All respondents to the questionnaire agreed with the objectives of the SI, and five out of eight agreed that the policy objectives supported traders in the UK.

4. What were the original assumptions?

The authenticity of EU produced olive oil was questioned widely in 2011 with the suggestion that adulteration with cheaper oil was widespread.

Introduction of improved controls was intended to reduce the likelihood of potentially fraudulent activity, thus avoiding unscrupulous operators gaining an economic benefit. That benefit, if an operator were to adulterate their oil with 10% vegetable oil, was estimated to be 15p per 500ml bottle. This was based on industry figures at the time of the wholesale cost of extra virgin olive oil of £2 per 500ml and vegetable oil at 50p per 500ml.

Costs to government and industry of implementing the new controls were based on the total quantity of olive oil marketed in the UK in 2013 which was 59,000 tonnes. Sampling is based on a five-year rolling average of the quantity of olive oil marketed. In 2019 this had risen to 74,000 tonnes; therefore, it can be assumed that total costs will exceed those estimated in the original assumptions.

5. Were there any unintended consequences?

Responses to the survey questionnaire revealed a divergence of views from two out of eight who saw positive consequences, (citing improvements in the standard of olive oil marketed in supermarkets), three out of eight who reported no unintended consequences, and three responses reporting negative unintended consequences.

The regulation explicitly prevents sale of pure olive oils in containers that have not been pre-sealed by the manufacturer or bottler. Although this provision has been a part of the olive oil regulations since 2002, it was not enforced in the UK and for some traders on tap sales had become an important part of their business.

The introduction of the 2014 Regulations heralded more rigorous inspection and enforcement of the regulation, and on tap sales have largely ceased. Traders who identified negative unintended consequences cited increased packaging waste, contrary to wider efforts to reduce packaging. They report consumer demand for on tap sales and point out that other unregulated oils can be sold on tap, including infused flavour olive oils, disadvantaging sales of pure olive oil.

Some stakeholders have been forced to adjust their trading practices where they previously sold pure olive oils on tap. In certain cases, this has had the perverse result of pure olive oils being 'flavoured' and labelled accordingly to stay within the rules.

6. Has the evidence identified any opportunities for reducing the burden on business?

Five out of eight of respondents saw no need to revise the regulation. Three responses stated revision of the regulation was required to facilitate on tap sales of pure olive oils.

Reduction in size of samples obtained from traders has been identified as an opportunity to reduce costs to traders (reduction in volume of olive oil seized for sampling) and government (reduced lab fees, reduced courier costs and improved availability of olive oil obtainable for sampling due to ability to sample from smaller lots)

Regulation overview

The Olive Oil (Marketing Standards) Regulations 2014 give powers to enforce in the United Kingdom, the provisions of the EU olive oil marketing standards regulations. Now the UK has left the European Union these regulations are retained in GB law. Other than very minor changes to some aspects of labelling regarding country of origin the rules around marketing olive oil remain the same.

UK trade data

UK Olive Oil Imports

Volume Kg	2015	2016	2017	2018	2019	5-year average
EU	74,399,801	75,657,236	79,123,462	68,691,643	85,688,852	76,712,199
Non-EU	312,284	422,339	261,001	283,903	218,751	299,656

UK Olive Oil Exports

Volume Kg	2015	2016	2017	2018	2019	5-year average
EU	2,029,292	2,024,779	1,783,343	1,869,580	1,891,243	1,919,647
Non-EU	513,593	457,644	589,734	793,489	814,998	633,892

(Source Defra Stats)

UK olive oil sampling results

	2017	2018	2019
no. of samples	61	59	69
non-compliance	11*	20*	34*
appeals	0	1	0
organoleptic	7	7	30
chemical	16	6	8
labelling	13	7	1
bottling records	0	1	0

(*overall number of non-compliant samples – there may be more than one defect per sample) (Source HMI APHA)

The incidence of non-compliance has increased due to the number of extra virgin oils failing the organoleptic test. Better targeting of sampling largely explains the increase in organoleptic failures. A recent European study (1) confirmed that standardisation of methods allows organoleptic tests to be considered objective, however some suggestions for improvement included introduction of uncertainty margins, establishment of reference samples and organised regular ring tests. Work to improve harmonisation of organoleptic panels is underway at an international level.

7. Conclusion

The 2014 Regulations have been successful in delivering their objective of providing effective control measures and protecting consumers against fraud.

1) Study on the implementation of conformity checks in the olive oil sector throughout the European Union ISBN 978-92-76-09264-3 doi: 10.2762/274137 KF-03-19-519-EN-N
October 2019

8. Recommendations

That the practicalities and benefits of reduced sample sizes are explored.

The enforcement bodies continue to work collaboratively to share information and intelligence.

Establish whether interpretation of rules about on tap sales reflects technical advances in packaging systems.