

EXPLANATORY DOCUMENT TO
THE PUBLIC BODIES (ABOLITION OF FOOD FROM BRITAIN) ORDER 2014

2014 No. [XXXX]

1. This explanatory document has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament under section 11(1) of the Public Bodies Act 2011.

2. Purpose of the instrument

2.1 To abolish the body known as Food from Britain (FFB), established by section 1 of the Agricultural Marketing Act 1983 as part of the Government's public body reform programme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 FFB was established as a Non-Departmental Public Body (NDPB) by the Agricultural Marketing Act 1983 and came into existence on 23rd March that year, originally to develop and coordinate the marketing of UK food. FFB later focused on promoting exports and assisting the marketing of quality regional food until its administrative closure in 2009.

4.2 The FFB Council took a decision in 2008 to cease FFB's activities, following a reduction in its grant in aid by Defra Ministers. The decision to close FFB was announced in a written Ministerial Statement¹ to Parliament on 26th March 2008, by the then Secretary of State for Environment, Food and Rural Affairs. FFB ceased operating in March 2009.

4.3 Whilst FFB no longer exists as an operating body, the legislation which established FFB (the Agricultural Marketing Act 1983) does not provide for its abolition. Therefore, FFB was included in Schedule 1 to the Public Bodies Act 2011 in order to achieve its legislative dissolution. An announcement on Defra's proposals to reform a number of public bodies, including FFB, was made in July 2010 by the then Secretary of State for Environment, Food and Rural Affairs.

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http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080326/wmstext/80326m0001.htm#column_10WS

4.4 The Minister for the Cabinet Office announced the outcome of the Public Bodies Bill Review on 14 October 2010, which included the proposal to abolish the FFB. The Public Bodies Review examined whether a body's functions are needed and, if they are, whether the body should continue to operate at arm's length from Government. This decision was based upon three tests:

- Does it perform a technical function?
- Do its activities require political impartiality?
- Does it need to act independently to establish facts?

5. Territorial Extent and Application

5.1 The Order extends to England and Wales, Scotland and Northern Ireland, except in so far as related repeals have the same extent as the provisions to which they relate.

6. European Convention on Human Rights

6.1 George Eustice, Parliamentary Under Secretary of State for the Department for Environment, Food and Rural Affairs, has made the following statement regarding Human Rights:

“In my view the provisions of the Public Bodies (Abolition of Food from Britain) Order 2014 are compatible with the Convention Rights.”

7. Policy background

7.1 Food from Britain was established in 1983 as a Non-Departmental Public Body (NDPB) by the Agricultural Marketing Act 1983 to organise, develop, promote, encourage and coordinate the marketing in the UK and elsewhere of UK agricultural and horticultural produce, fish (other than sea fish) and fish products and any other food produced or processed in the UK. FFB later focused on promoting exports and assisting the marketing of quality regional food. It is the joint responsibility of the four agriculture Ministers in the UK but Defra acts as its sponsor department.

7.2 FFB provided organisations with a range of business development and information services such as market assessment reports, trade missions and support at international food and drink exhibitions to help break into and maintain a presence in international markets. It had a network of independent overseas offices in the key primary markets of Western Europe as well as in North America and Scandinavia and representatives in Eastern Europe and the Far East.

7.3 FFB also took the lead in the delivery of a national programme of activity to support the quality regional food sector in England. The programme,

for which funding ended in 2007/08, focussed on trade development, consumer awareness and increasing business competitiveness. FFB received approximately £5m per year in grant-in-aid from Defra (on behalf of the four UK Agriculture Departments) for export promotion work, in addition to £1m per annum paid by Defra for its regional food work. It also generated further income from industry and by working with industry organisations.

The administrative closure of FFB

7.4 Against the background of the Comprehensive Spending review (CSR) in 2007/08 and changing Departmental priorities, Defra decided to reduce the amount of grant-in-aid available to FFB for 2008/09 to £4 million, with the expectation that the funding would come to an end before the conclusion of that CSR period (2008/09 - 2010/11).

7.5 The FFB Council took the view that FFB could not continue to function with the reduced level of Government funding and concluded that FFB should cease operating at the end of the 2008-09 financial year. Ministers in Defra and the Devolved Administrations accepted this. Hilary Benn, the then Secretary of State for Defra, made a Written Ministerial Statement before Parliament in March 2008 announcing that FFB would be closed.

7.6 FFB ceased operating and vacated its former offices in March 2009. All of FFB's staff were made redundant or retired with the exception of one member of staff with responsibility for some of the delivery work relating to the EU Protected Food Name Scheme. That person transferred with that work to ADAS UK Ltd in 2009 following a tender exercise by Defra. FFB's residual responsibilities, assets and liabilities were subsequently transferred to Defra. This included the legal ownership rights to the *Food from Britain* name and to the www.foodfrombritain.com domain name, which Defra still retains. The closedown was carried out in anticipation of legislation to dissolve FFB in law.

7.7 As part of the closedown work Defra explored with FFB the possibility of successor arrangements. A number of organisations expressed an interest in licensing the FFB brand and taking over elements of its business, but were unwilling to take on the TUPE (Transfer of Undertaking (Protection of Employment) Regulations) liabilities.

7.8 Following the decision to cease FFB activities, Defra accepted responsibility for the residual liability of the FFB pensions Scheme. In order to safeguard future payments, the FFB Trustees purchased a bulk annuity policy with a commercial insurer to provide for the scheme member's pension benefits to be paid in full. The majority of the cost was met by the scheme from its assets. Defra agreed to fund the balance, which was in the region of £8 million.

Residual obligations

7.9 Whilst the Agricultural Marketing Act remains in force, Defra and the Devolved Administrations continue to have a legal obligation to publish Annual Report and Accounts for FFB which must be laid before UK Parliament and each National Assembly/Parliament each year. Despite having no activity to report, the preparation, auditing and printing of the report costs Defra in the region of £5,000 per annum. By repealing the Agricultural Marketing Act, the abolition Order will eliminate this unnecessary cost to the taxpayer.

FFB legacy

7.10 Following the cessation of FFB's activities in 2009, advice and support to UK food and drink exporters was made available from UK Trade & Investment, as well as Scottish Development International, Welsh Government's Food and Market Development Division and Invest Northern Ireland. FFB's former network of independent International offices (now called the Green Seed Group) continues to offer consultancy services to UK exporters of food and drink on a commercial basis. The Food and Drink Federation continues to host a webpage² which signposts the main organisations that continue to offer export support to British food and drink companies. The Open to Export website³ provides information on exporting, contacts and case studies to help exporters. The Food and Drink Exporters Association was set up specifically to help exporters in the sector and it works closely with Defra and UK Trade and Investment. In addition, as part of the Export Action Plan (see paragraph 7.12) there is a specific action for industry and government to collaborate in the development of export information tools. The delivery work relating to the EU Protected Food Name Scheme transferred to Defra in 2012.

Government support for food and drink exports

7.11 Despite the closure of FFB, exports in the agri-food sector continue to grow. They increased from £13.2bn in 2008 (FFB's final full year of operation) to £18.2bn in 2012. The Government is committed to working closely with industry stakeholders to boost exports, promote innovation and encourage further growth, particularly amongst SMEs.

7.12 The Food and Drink Exports Action Plan, which applies to businesses across all of the UK, is key to this activity. The recently re-launched Plan⁴ aims to contribute £500m to the economy through assisting up to 1,000 UK companies by 2015 and thereby contribute to an increase in UK exports of at least £1bn by 2015. This reflects Government and industry commitment to ensure that UK food and drink companies are able to make the most of export opportunities and maximise their share of global markets. The Action Plan

² <http://www.fdf.org.uk/exports.aspx>

³ <http://opentoexport.com/>

⁴ <https://www.gov.uk/government/publications/uk-food-and-drink-international-action-plan>

aims to deliver improvements in promotion, trade development, unlocking markets and simplifying support and trade procedures for industry and so grow exports in the UK food and drink sector.

7.13 In Northern Ireland, Invest NI has for many years offered a comprehensive range of support to food companies. Following the cessation of FFB programmes the range of trade and marketing support through Invest NI was strengthened and a new Regional Food Programme introduced by DARD. In addition Invest NI delivers a programme of trade missions to international markets. Also, the Agri-Food Strategy Board which was appointed by Ministers in Northern Ireland in 2012 continues to play an important role in ensuring that the potential of the sector is maximised. Recommendations on growing the market share (put forward by the Board in its strategic plan for the sector, '*Going for Growth*') targeted export-led growth and are currently being considered. A final response from the NI Executive and agreed implementation will follow.

7.14 In Scotland, Scottish Development International (SDI) continues to offer an extensive range of international products and support services to Scottish food and drink companies. This programme, since the closure of FFB, has continued and in fact has been enhanced through a number of additional activities including appointment of in-market specialist food and drink executives in key markets including US, Germany and China. SDI has also worked with industry partners to deliver a comprehensive programme of Missions, Exhibitions and Learning Journeys to key markets. SDI works closely with Scotland Food and Drink, the industry leadership organisation, to ensure that the international aspirations of the sector in Scotland are fully supported through an agreed strategic approach to key target markets. This approach was augmented on 4 March 2014, with the launch of the Scotland Food and Drink Export Plan. This sets out an export target of £7Billion in overseas food and drink by 2017, with a focus on priority markets.

7.15 In Wales, the Welsh Government is strongly committed to the growth and development of its food sector. The Government supports Welsh food and drink produce through a number of initiatives including support towards attending major food and drink trade exhibitions both internationally and within the UK, as well as through a programme of measures including new product development, innovation, programmes for business mentoring and market development. Also supported is the development of value-added supply chains using the primary produce of the farming industry; with the aim of helping the food sector in Wales become more sustainable economically, socially and environmentally.

7.16 Since the closure of Food from Britain, the Welsh Government has funded ADAS to support the developing potential Protected Food Name

applications in Wales, which would build upon the success of the Protected Geographical Indication status awarded to Welsh Lamb and Welsh Beef. The EU Protected Food Name Scheme identifies regional and traditional foods whose authenticity and origin can be guaranteed. Under this system a named food or drink registered at a European level will be given legal protection against imitation throughout the EU.

Legislative abolition

7.17 Essentially FFB is a defunct body which has not operated since 2009. It has no staff, premises, assets or liabilities. Its former functions are carried out by other Government departments and industry bodies. This Order will serve to dissolve FFB in law, deal with final accounting and reporting obligations, and make consequential legislative repeals and revocations. It also contains formal provision vesting in the Secretary of State for Environment, Food and Rural Affairs any remaining property, rights and liabilities of the council, although this is included only as a precaution. Its abolition will not impact on business and will generate savings for the taxpayer. The Public Bodies Act 2011 is seen as an appropriate and effective vehicle for abolishing FFB.

7.18 This Order requires the consent of the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales before it can be made.

8. Compliance with section 8(1) of the Public Bodies Act 2011

8.1 Section 8 of the Public Bodies Act 2011 states that a Minister may make an order under that Act only where it is considered that the order serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. The Minister considers that this Order serves the purpose of improving the exercise of public functions in section 8(1) of the 2011 Act, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. Ministers have reviewed the proposed legislative abolition of FFB and are satisfied that it would serve the purpose of improving the exercise of public functions having regard to:

8.2 **Efficiency** - The proposal to abolish FFB is driven by a desire to remove a defunct non-departmental public body whose continued legislative existence results in an unnecessary annual cost to the taxpayer, providing no value. Whilst FFB no longer exists as an operating body, the legislation which established FFB (the Agricultural Marketing Act 1983) does not provide for its abolition.

8.3 **Effectiveness** – FFB no longer exists as a functioning body and has not existed as a functioning body for almost five years. Essentially FFB is a

defunct body; it has no staff, premises, assets or liabilities. Its former functions are carried out by other Government departments and industry bodies.

8.4 **Economy** – There is no budget allocated for FFB. As explained in paragraph 7.9, its abolition will result in savings in the region of £5,000 per annum.

8.5 **Securing appropriate accountability to Ministers-** Abolition of FFB does not create any issues of accountability given that the body is no longer operational. The Government is committed to working closely with industry stakeholders to boost exports, promote innovation and encourage further growth, particularly amongst SMEs.

9. Compliance with section 8 (2) of the Public Bodies Act 2011

9.1 The Minister considers that -

a) The Order does not remove any necessary protection

The abolition of FFB will not result in the removal of any protection for the businesses that made use of its former services.

b) The Order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

The abolition of FFB will not prevent any business or individual from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise.

10. Interest in the Houses of Parliament

10.1 There was no significant discussion of FFB during the passage of the Public Bodies Act.

11. Consultation outcome

11.1 Defra and the Devolved Administrations published a joint consultation paper on the Government's proposal to abolish FFB on 19 September 2013. It was decided a full 12 week consultation would be disproportionate for a body which had been defunct for over 4 years. As there was unlikely to be great interest in FFB's legislative abolition, a 6 week consultation period was considered sufficient. No criticism of the timescale for consultation was made by consultation respondents.

11.2 The consultation was made available via an online survey and over 80 selected consultees were invited to comment on the proposals. These included

commercial food and drink enterprises, trade associations, levy boards, consultancies, regional food groups, Government departments and Devolved Administrations. The consultation paper was also made available on the Government website⁵.

11.3 The consultation closed on 31 October 2013 by which time a total of eight responses had been received. No other comments were received after this date. Defra and the Devolved Administrations consider that the consultation process in relation to this Public Bodies Order is consistent with the Government's consultation principles (of July 2012 and October 2013).

Consultation questions

11.4 The consultation asked three questions:

- Do you support the Government's preferred option to repeal the Agricultural Marketing Act and abolish FFB in law?
- If you do not support the Government's preferred option, what is your rationale for retaining the Agricultural Marketing Act?
- Do you have any additional points you would wish Ministers to consider before making their final decision?

11.5 Of the responses received, four respondents supported the government's preferred option, one was opposed, and two did not provide a clear view either way. One anonymous respondent did not want their response made public.

Summary of responses

11.6 A summary of the responses is shown in the table below:

Organisation	Do you support the Government's preferred option to abolish FFB in law?	If you do not support the Government's preferred option, what is your rationale for retaining the Agricultural Marketing Act?	Do you have any additional points you would wish Ministers to consider before making their final decision
The Wine and Spirit Trade Association	Yes		Abolition would appear to be sensible.
Walkers Shortbread Limited	No explicit view expressed		Recommend the FFB brand name is retained by Government, in case FFB is resurrected in the future and to prevent it being used by a commercial body. FFB hugely beneficial organisation. Inconceivable that [in

⁵ <https://www.gov.uk/government/consultations/abolition-of-food-from-britain>

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			2009] the government could not sustain the modest contribution to retain FFB, especially when considering the [significantly greater] support devoted to export promotion by the French and German Governments.
Tate & Lyle Sugars	No strong views either way.		No comments.
Individual response	No	The Union flag should be allowed on British meat products.	[Comments out of scope of the consultation, example as follows:] By law, Britain is not and has never been part of the European Union. When he signed the European Communities Act in 1972, Edward Heath knowingly and wilfully deceived and betrayed the British people into foreign rule by the EEC/EU. This was the most calculatingly grievous and outrageous treason in British history.
Food and Drink Federation	Yes		FFB played a valuable role in supporting exporters but this support was not adequately replaced. The lack of export support from organisations and Government in recent years has left businesses unaware of the opportunities overseas. However, strong progress made over the last year with the Food and Drink Federation, Defra and UKTI working closely together to inspire businesses to begin exporting. Must now step up our efforts under the new UK Food and Drink Action Plan to inspire businesses to begin

			exporting and to export more.
Individual response	Yes		No comments
Northern Ireland Food and Drink Association	Yes		No comments
Anonymous	Unclear		No comments

11.7 The joint response to the consultation from the UK and Devolved Administrations explained that it welcomed that fact that the majority of those who responded are in favour of the abolition of Food from Britain.

11.8 The response noted the call to support businesses to export. It pointed out that the UK Government and Devolved Administrations in Scotland, Wales and Northern Ireland were currently working closely with industry to help UK food and drink businesses. There was a real commitment to ensure that UK food and drink companies were able to make the most of export opportunities and maximise their share of global markets. This is reflected in the recently revised Food and Drink Exports Action Plan (see paragraph 7.12). Each region also has its own specifically tailored plans with this aim in view.

11.9 The Government concluded that it would, at an early opportunity, lay before Parliament a draft Order under the Public Bodies Act to abolish Food from Britain.

12. Guidance

12.1 No guidance is deemed necessary.

13. Impact

13.1 This Order repeals the Agricultural Marketing Act 1983 (and related enactments in consequence) and dissolves FFB in law. It is not concerned with the cessation of FFB's former functions or the administrative closure of the body in 2009. As such this Order has no impact on business, charities or voluntary bodies and does not impose any new costs, administrative burdens or information obligations. An impact assessment is not considered necessary.

14. Regulating small business

14.1 The legislation does not apply to small business.

15. Monitoring and review

15.1 There is no tangible outcome to monitor in respect of FFB. However, the Government continues to monitor the support available to exporters and the levels of UK food and drink exports.

16. Contact

16.1 Ian Leggat at the Department for Environment, Food and Rural Affairs (Tel: 020 7238 6477 or email: ian.leggat@defra.gsi.gov.uk) can answer any queries regarding the instrument.

16.2 Copies of all responses to the public consultation exercise can be seen at, or obtained from, Ian Leggat, Area 3A, Nobel House (Tel: 020-7238-6477 or email ian.leggat@defra.gsi.gov.uk).

16.3 Copies of the responses will also be made available to the Environment, Food and Rural Affairs Select Committee and the Secondary Legislation Scrutiny Committee of the House of Lords.