

Gough Square Chambers: Food Law Column

Ian Thomas and **Stuart Jessop** are specialist food law barristers at Gough Square Chambers and editors of the Food Law Column. Together with contributions from other members of chambers, they provide expert commentary and analysis on topical developments and key issues in the field of food regulation and policy.

In the September 2026 edition of the column, **Ian Thomas** considers the implications of the UK-EU Sanitary and Phytosanitary (SPS) Agreement for food businesses operating in the UK (GB).



The SPS Agreement – AKA ‘let’s go back to being EU compliant’

By **Ian Thomas**, Gough Square Chambers

What is this all about?

During 2027, UK food businesses will be required to ensure that their activities, their products and their labels comply with EU food laws that are within the scope of the agreement. The precise timings are unknown, but draft legislation may be seen in early 2027 with the agreement due to take effect in mid-2027, subject to any transitional provisions.

Major changes lie ahead for the food sector, and businesses must start to plan now so they are not left behind. Strategic proactive change is usually more manageable, and cost effective, than a last-minute rushed approach.

I know that is not what you want to read so soon after the holiday season, but it is important to start liaising with clients to make them aware of what is happening and how this seismic change will affect them.

There will be varying degrees of impact for UK businesses, but it is reasonable to suggest that all UK food businesses will need to take some steps to ensure compliance.

The consequences of the agreement will depend in part on the current business activities (i.e. the impact

for those operating in Northern Ireland or who currently trade with the EU may be less than for businesses operating in GB and who do not trade with the EU), and the degree to which there has been divergence of the legal rules applicable to the business in question.

Much has been said about the implications of the UK's departure from the EU on food businesses and consumers. It is probably fair to say that for some areas, such as imports, there has been an increase in cost and resources needed to move goods into GB. One of the oft cited reasons to justify the new agreement is that it will reduce cost and red tape for businesses trading with the EU.

However, if the business only operates in GB, perhaps as a specialist local manufacturer or supplier, those stated benefits may mean little to them, unless they have chosen not to supply into the EU due to cost and red tape. If so, new markets may open up for them.

The Agreement will not make the UK a member state of the EU and it will not have a ‘seat at the table’ where decisions are made, but it will be required to make an ‘appropriate financial contribution’ to support the EU's work.

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What is the SPS Agreement?

By way of brief background, at a UK-EU Summit in May 2025, a series of Common Understandings were reached to explore 'areas with the potential to strengthen bilateral cooperation between the European Union and the United Kingdom'.

In achieving this aim, there was a 'commitment to [the] full, timely, and faithful implementation' of the Withdrawal agreement (including the Windsor Framework) and the Trade and Cooperation Agreement.

Within the Common Understandings document, is a section called 'Working towards a Common Sanitary and Phytosanitary Area'.

The SPS agreement will cover the EU and the UK in respect of GB. 'This would result in the vast majority of movements of animals, animal products, plants, and plant products between Great Britain and the European Union being undertaken without the certificates or controls that are currently required by the rules within the scope of the SPS Agreement for such movements.'

The same benefits would be extended to the movements within the UK regarding trade between GB and NI.

That Document sets out the parties' intentions –

'... the SPS Agreement should ensure the application of the same rules at all times by providing for timely dynamic alignment of the rules applicable to and in the United Kingdom acting in respect of Great Britain with all the relevant European Union rules ...'.

The Common Understandings include scope for a 'short list of limited exemptions to dynamic alignment' (see below).

What does all this mean in practice?

What laws are in scope and what does this mean for FBOs?

If your business activities are covered by the terms of the Agreement, the simple answer is that you will need to comply with the relevant EU rules. This applies whether you are trading with the EU or only serving the domestic market.

There are 76 EU Regulations and Directives included in the Agreement which are categorised under several headings including food, feed, animal welfare, transport, slaughter and health, plants and pesticides.

It is impossible to list all the laws in scope and consider the implications for each. I have therefore selected some of the legislation that I often come across in practice.

General food and consumer law

General food law (Regulation 178/2002)

Food information to consumers (Regulation 1169/2011)

Nutrition and health claims (Regulation 1924/2006)

This will impact manufacturers, retailers and importers/exporters and the implications include traceability and consumer information.

Food Hygiene

Hygiene of foodstuffs (Regulation 852/2004)

Hygiene rules for products of animal origin (Regulation 853/2004)

Slaughterhouses, meat processors and dairy producers are among those who will be particularly affected, but so will retailers and others who must comply with the general hygiene rules where Annex II of Regulation 852/2004 often forms the basis of day-to-day enforcement by EHOs.

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Official Controls

The GB alignment with the Official Controls Regulation (2017/625) will have an impact at ports and borders for importers and exporters due to in scope products being subjected to fewer official checks, if any.

Food Additives, Flavourings, Supplements and Novel Foods

Additives (Regulation 1333/2008)

Food supplements (Directive 2002/46)

Novel foods (Regulation 2015/2283)

Food for specific groups (Regulation 609/2013)

This will impact ingredient makers and suppliers, product formulations and makers of specialty products such as infant formula.

Supplements law is particularly important because, as a Directive, it did not pass into GB law as assimilated law in the same as EU Regulations. There have been several updates to the EU Directive since 2021 which will apply in GB after alignment.

Marketing Standards for Specific Foods

Products in scope under this heading include coffee, cocoa, honey, sugars and fruit juices. Also in scope is the CMO Regulation (1308/2013).

There will be implications for formulations, processing and labelling.

In June 2026, EU Directive 2024/1438 (affecting the so-called 'Breakfast Directives') came into force across the EU. It applies to honey, fruit juices, fruit jams and jellies, and dehydrated milk. These changes do not apply directly in Great Britain but do so in Northern Ireland where they are given effect by the Breakfast Foods (Amendment) Regulations (Northern Ireland) 2026.

When the SPS Agreement comes into force and GB laws are aligned with EU laws, these amendments will apply across the whole of the UK.

Animal Welfare, Transport and Slaughter

Welfare at time of killing (Regulation 1099/2009)

Animal welfare during transport (Regulation 1/2005)

There will be implications for hauliers and abattoirs.

I mentioned earlier that the Common Understanding document refers to limited exemptions. One of these is animal welfare where there is a concern that aligning with EU laws could result in lower animal welfare standards in the UK.

The current perspective

In July 2026, DEFRA published the results of a survey it had conducted into the Agreement and its implications.

Further publications are expected, but some of the headline points (from the 491 responses) are:

- Even among those who are confident about what the Agreement will mean for their business, there is an element of uncertainty due to the scope and coverage of the Agreements, lack of clarity on timelines and documentation requirements
- The responses showed that 71% of respondents anticipate some level of operational change, mainly in the areas of compliance and regulatory processes (particularly where approval is required), labelling and packaging (including around 'Not for EU'), contract changes and IT and digital systems
- The lead time for businesses varies according to the size, sector and nature of what changes will be required. Some businesses stated that they require up to three months whereas others indicated a year would be necessary

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- Respondents acknowledged the potential for benefits but, again, these depend on the business and the sector. Benefits are expected to come from reduced administrative burdens and quicker and easier imports.
- Resource implications included one-off compliance costs, ongoing operational costs and staff training. However, the lack of certainty leading to difficulty in planning, was seen as a major challenge for many.

What to do now?

The SPS agreement brings a sense of 'déjà vu'. Ten years ago, the UK and EU were negotiating the final terms of the UK's withdrawal. Now they are negotiating the terms of an agreement that will bring them closer together.

The timeline for implementation is relatively short, particularly for those who are in the process of new product development, refreshing labels or deciding on claims, or reformulating products.

Doing nothing is not an option.

From a food business perspective this is a very short timeframe,

If a food business or a food product is in scope, now is the time to act.

But what can be done?

- You will almost certainly be affected in some respect. This is not a change that 'only happens to others' and 'only if you trade with the EU'
- Review the business activities and products against the list of legislation in scope
- Try to assess the level of divergence between GB law and current EU law and what this means for the business and the product range

- Think carefully how this may affect the future direction of your business and products asking questions such as, am I changing a formulation, am I looking to change the claims I make, am I looking to expand an existing range or create a new product range, are all things to think about
- Alternatively, in GB, am I prevented from doing something which I may be able to do under EU food law
- Keep up to date with developments (including via the DEFRA website)
- Work with your advisers to assess the impact on the business and the time and resources that will be needed to achieve compliance

Of course, the implementation of the SPS agreement and the enforcement of the new laws must be done clearly, carefully and consistently and guidance is expected to be published in due course. Competent authorities will need to train their staff accordingly and prioritise compliance through engagement and education in the first instance.

But, if this new dynamic realignment is to be effective so that UK (GB) and EU food laws return to parity on the appointed day, there may be little scope for tolerance for non-compliance. However, in practice as authorities' resources are likely to remain limited, it is to be expected that formal intervention will only be necessary in cases where consumers are at risk or where their interests are being adversely affected by deliberate unlawful acts or omissions.

That does not mean food businesses can sit back and relax. No-one wants to be the business that is made an example of in respect of an avoidable non-compliance.

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Ian is a specialist regulatory barrister. He is highly regarded for his work in food and consumer products regulation, including labelling claims (for example nutrition, health and environmental), safety and recalls. Ian is also experienced in health and safety law, inquests and public inquiries.

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