



Protecting Food Names

Guidance on EC Regulations



defra

Department for Environment
Food and Rural Affairs

If you are a producer of traditional and regional food and drink you should read this booklet, as it describes how European legislation can help you to maintain the specific identity of your product. In today's competitive market-place, protection of your product's identity against imitation could help your marketing strategy.

This guidance is intended only as an introduction to Council Regulations (EC) Nos. 510/2006 and 509/2006 and should not be treated as an interpretation of the legislation.

Introduction

In 1993 EU legislation came into force which provides for a system for the protection of food names on a geographical or traditional recipe basis. Under this system, a named food or drink registered at a European level will be given protection against imitation throughout the European Union (EU). Registration also helps individuals and, in particular, groups of regional producers, to raise the awareness of their product both at home and in Europe. This may in turn help them take advantage of the wider markets that are arising from consumers' increasing awareness of the importance of regional and speciality foods.

The original regulations (Council Regulation (EC) 2081/92 and 2082/92) were replaced in March 2006 by Council Regulations (EC) 509/2006 for Traditional Speciality Guaranteed (TSG) products and Council Regulations (EC) 510/2006 for Protected Designation of Origin (PDO)/Protected Geographical Indication (PGI) products. Most of the existing provisions have been retained in the new regulations but amendments were necessary to take account of a World Trade Organisation (WTO) Panel ruling in 2005 in order to bring elements of the EU protected food name schemes into line with WTO rules.

Protecting food names is a lengthy but relatively simple process in itself. However, it does usually require in the first instance a degree of collaboration with like-minded producers.

There are three main designations in EC law all of which attract a similar degree of protection.



What are the Three Designations?

EC Council Regulation on the Protection of Geographical Indications and Designations of Origin Reg No 510/2006

EC Council Regulation on the Traditional Speciality Guaranteed Reg No 509/2006



Product must be produced and processed and prepared in geographical area (PDO)

Quality or characteristics essentially due to that area



Product must be produced or processed or prepared in geographical area (PGI)

Specific quality, reputation or other characteristics attributable to that area



Name must be specific in itself or express the specific character of the foodstuff (TSG)

Must be traditional, or established by custom. Distinguishing features of the product must not be due to the geographical area the product is produced in, nor entirely based on technical advances in the method of production.

Applications and Protection

Who can apply?

Applications for each of the three designations can be put forward by groups of producers. Such groups may include other interested parties (for example butchers in the case of applications for meat). Individuals can also put forward applications for either of the two geographical designations (i.e. Protected Designation of Origin and Protected Geographical Indication) if:

- the defined geographical area has characteristics which differ from neighbouring areas; or
- the product has characteristics which are different from those produced in neighbouring areas.

It is important to note that producers who are not part of the original applicant group, but who can show to the satisfaction of the nominated inspection body that their product conforms fully with the registered specification, may use the registered name.

Are all foods covered?

Most foods intended for human consumption can register including meat, dairy and fish products, honey, fruits and vegetables, beer, beverages made from plant extracts, bread, pasta, pastries, cakes, biscuits and confectionery. Examples of other products which can also be registered under particular designations are as follows:

Protected Designation of Origin and Protected Geographical Indication: natural gums and resins, hay, essential oils (for example lavender oil), mustard paste, cork, cochineal, flowers and ornamental plants, wool, wicker and scutched flax.

Traditional Speciality Guaranteed: pre-cooked meals, prepared condiment sauces, soups and broths, ice cream and sorbets, chocolate (and other food preparations containing cocoa).

Applications and Protection

Product names

Names registered under the two geographical designations may be traditional but otherwise must have a geographical descriptor and be linked to an area.

Names that cannot be registered under these two designations are:

- those which are likely to be confused with a plant variety or animal breed although it may be possible to register such a name with a geographical denominator for example Kent Cox apple.
- generic names – however, it may be possible to register a geographical name which is partly generic.

Names registered under the **Traditional Speciality Guaranteed** designation must be specific (for example pumpernickel, haggis) or express the characteristic of the product (for example corn fed chicken). The name must not be misleading about the particular features of the food.



Trade marks

A name cannot be registered for a PDO or a PGI if a similar trade mark already exists which, because of its reputation and renown or the length of time it has been used, might lead to confusion as to the true identity of the product.

The specification

All the designations require a precise product specification. This must include information about the method of production including the origin, nature and characteristics of the raw materials. Historical evidence linking the product to the geographical area or to substantiate the specific character of the product will also be required.

The information contained in the application will be made available to the public.

What protection do the registered names receive?

Once names are registered they are protected by the enforcement agencies in the member states. In the United Kingdom enforcement is carried out by local authorities' trading standards and environmental health departments.

Protected Designations of Origin and Protected Geographical Indications.

The registered name of the product is protected from any direct, or indirect commercial use by an unregistered producer. This includes expressions such as 'style', 'type', 'method', 'as produced in' or anything similar. Any false or misleading indication as to the provenance, origin, nature or essential qualities of the product placed anywhere on the packaging that may convey a false impression are similarly not permitted. Only products which are registered will be eligible to be labelled as being Protected Designation of Origin or Protected Geographical Indication or use the initials PDO or PGI and use the Community Symbol.

Applications and Protection

Traditional Speciality Guaranteed

The registered product will have the exclusive use of the name and Community Symbol and Indication. If there are valid formal objections to the application by others who are shown to be economically disadvantaged, the registered product can apply to use the Community Symbol and Indication but will not have exclusive use of the name.

Inspection bodies

All products registered under the three designations will be subject to inspection to ensure that the requirements of the registered specification are met. Applicants must nominate an inspection body. The inspection body may be a public body (for example Local Authority Trading Standards Services) or a private body. Under the EC legislation, private inspection bodies are required to be accredited to European Standard EN 45011. We would require public inspection bodies to satisfy us that they were able, as far as possible, to comply with the principles of that EN standard.

Participants must meet the cost of inspections.



What next?

If you think that your product might be eligible for protection and would like to discuss the scheme in more detail you should contact the relevant department at the addresses given below. The application form, PFN 1, can also be obtained from these addresses.

for England

Irene Bocchetta
Food From Britain
4th Floor
Manning House
22 Carlisle Place
London SW1P 1JA
Tel: 020 7233 5111
Fax: 020 7233 9515
www.regionalfoodanddrink.com
e-mail:
ibocchetta@foodfrombritain.co.uk

for Wales

Siôn Aron Jones
Food Policy and Strategic
Development Unit
Food and Market Development
Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Tel: 029 2082 1465
e-mail: sionaronjones@wales.gsi.gov.uk

for Scotland

Pat Porteous
Scottish Executive Environment
and Rural Affairs Department
Room 257
Pentland House
47 Robb's Loan
Edinburgh EH14 1TY
Tel: 0131 244 6387
Fax: 0131 244 3110
e-mail:
patricia.porteous@scotland.gsi.gov.uk


for Northern Ireland

Daniel Cartland
Department of Agriculture and
Rural Development for Northern
Ireland
Dundonald House
Room 132
Upper Newtownards Road
Belfast BT4 3SB
Tel: 028 9052 4517
Fax: 028 9052 4574
e-mail:
daniel.cartland@dardni.gov.uk


Application Process for the EU Food Name Scheme

Completing the form is a relatively simple process although it may take up to two years for a product to become registered. The following sets out the different stages of the process.


Submission of application form and supporting documentation to the relevant contact point.




Examination of the application by the relevant authority. This involves exchange of correspondence, and meetings with the applicant to resolve any queries, in consultation with Defra if necessary.




National Objection procedure involving seeking comments from interested parties and dealing with their queries/objections in liaison with relevant authority and applicant.



Final decision taken by Defra on eligibility of the application, if favourable, the decision to submit the application to the Commission is publicised offering a final opportunity for comments from interested parties.



Once any comments/objections have been resolved the application and supporting documentation is submitted to the Commission.



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graph TD; A[Commission have 12 months within which to examine the application, which can involve requesting further information from the Member State. This stage may also involve the Commission seeking advice from a Scientific Committee set up for that purpose.] --> B[If the Commission is content, then details of the application are published in the Official Journal (OJ) and there is a further period of six months within which objections to the application may be made by either another Member State and Third (non-EU) countries or interested parties in those countries. If no admissible objections are received the name is now registered.]; B --> C[If the Commission rules that any objections made are admissible then there is a further period of six months in which the UK and the objecting Member State or Third country try to resolve the matter bilaterally.]; C --> D[If an acceptable resolution is found then the name is registered and publication to that effect is made in the OJ.]; D --> E[If the objections are unresolved then the final decision on registering the product is taken by the EU Standing Committee.]; E --> A;
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Commission have 12 months within which to examine the application, which can involve requesting further information from the Member State. This stage may also involve the Commission seeking advice from a Scientific Committee set up for that purpose.

If the Commission is content, then details of the application are published in the Official Journal (OJ) and there is a further period of six months within which objections to the application may be made by either another Member State and Third (non-EU) countries or interested parties in those countries. If no admissible objections are received the name is now registered.

If the Commission rules that any objections made are admissible then there is a further period of six months in which the UK and the objecting Member State or Third country try to resolve the matter bilaterally.

If an acceptable resolution is found then the name is registered and publication to that effect is made in the OJ.

If the objections are unresolved then the final decision on registering the product is taken by the EU Standing Committee.

Additional information about the scheme and details of all the EU registered products can be obtained by accessing the Food From Britain (FFB) or the European Union (EU) website:

FFB – www.regionalfoodanddrink.com

EC – www.ec.europa.eu/agriculture/foodqual/quali1_en.htm

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