

EXPLANATORY MEMORANDUM TO

THE FOOD FOR PARTICULAR NUTRITIONAL USES (ADDITION OF SUBSTANCES FOR SPECIFIC NUTRITIONAL PURPOSES) REGULATIONS (NORTHERN IRELAND) 2009

2009 No. 398

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Food Standards Agency Northern Ireland to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 15(1)(a) and (f), 16(1) and (2), 25(1)(a) and (3) and 47(2) of the Food Safety (Northern Ireland) Order 1991 as read with paragraph 1A of Schedule 2 to the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose of the Rule

- 2.1 The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009 ('the Regulations') provide execution and enforcement provisions, in Northern Ireland, for Commission Regulation (EC) No. 953/2009 on the substances that may be added for specific nutritional purposes in foods for particular nutritional uses. The main purpose of the Regulations is to align domestic law with EC law to consolidate and amend the list of permitted substances for use in foods for particular nutritional uses ('Parnuts').

3. Legislative Background

- 3.1 Commission Regulation (EC) No. 953/2009 consolidates and amends current EC legislation providing for the addition of certain substances to Parnuts foods. This EC Regulation repeals Directive 2001/15/EC and Directive 2004/6/EC with effect from 31 December 2009.
- 3.2 The Regulations repeal the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 264); the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Amendment) Regulations (Northern Ireland) 2004; and the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Amendment) Regulations (Northern Ireland) 2006.

4. Parity or Replicatory Measure

- 4.1 This Rule applies to Northern Ireland only. Parallel legislation is being made in England, Scotland and Wales.

5. European Convention on Human Rights

- 5.1 As this Rule is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Policy background

- 6.1 EC legislation requires that foods for particular nutritional uses are safe and that they meet the nutritional requirements of the persons for whom they are intended. A Parnuts food is a food which, owing to its special composition or process of manufacture, is clearly distinguishable from food intended for normal consumption, and is sold in such a way as to indicate its suitability for its claimed nutritional use. Examples of Parnuts foods include - infant formulae, follow-on formulae and medical foods.
- 6.2 To facilitate consumer choice, the widest possible choice of substances such as vitamins, minerals and amino acids should be available for use in foods for particular nutritional uses. To ensure consumer protection, it is also important that the safety of these substances is scientifically proven before they are used in the manufacture of foods for particular nutritional use.
- 6.3 In order to fulfil these requirements, a European Commission Directive was agreed in 2001 ('Directive 2001/15/EC') which listed the types of chemical substances that may be used in the manufacture of foods for particular nutritional uses. Any chemical substance that is listed in the Directive must have received a favourable scientific evaluation either by the European Food Safety Authority (EFSA), or its forerunner, the Scientific Committee on Food (SCF).
- 6.4 If a manufacturer wishes a new substance to be added to the list of authorised substances in Directive 2001/15/EC the new substance must first receive a positive assessment from EFSA. The European Commission Standing Committee on the Food Chain and Animal Health (SCoFCAH) must then agree that the new substance should be added to the relevant list in Directive 2001/15/EC.
- 6.5 Earlier this year the European Commission published Commission Regulation (EC) No. 953/2009 to consolidate and amend Directive 2001/15/EC. This increases the range of sources of vitamins and minerals and other substances that may be added to foods for particular nutritional uses and represents simplification of current legislation as the provisions will be consolidated into a single regulation making it easier to read.

7. Equality Impact

- 7.1 These Regulations will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the Section 75 groups.

8. Impact

- 8.1 The Food Standards Agency consulted a number of interested parties in Northern Ireland on the proposed Regulations. The primary business sector that will be affected by the regulatory proposals will be manufacturers of foods for particular nutritional uses. The consultation did not generate any replies, therefore it is assumed that the measures proposed impose no new financial burdens.
- 8.2 The Regulations would not impose any significant new burden on Government or enforcement officers or rural communities.
- 8.3 A Regulatory Impact Assessment has not been prepared to accompany these Regulations as no costs have been identified.

9. Contact

Mervyn Briggs at the Food Standards Agency NI, Tel: 028 9041 7742,

Email: mervyn.briggs@foodstandards.gsi.gov.uk or

Hayley Hamilton, Tel: 028 9041 7763

Email: hayley.hamilton@foodstandards.gsi.gov.uk