

EXPLANATORY MEMORANDUM TO

THE FOOD ADDITIVES, FLAVOURINGS, ENZYMES AND EXTRACTION SOLVENTS REGULATIONS (NORTHERN IRELAND) 2013

2013 No. 220

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Food Standards Agency in 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), (e) and (f), 16(1) and (2), 25(1), 2(e) and (f) 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.

2. Purpose of the Rule

- 2.1 The proposed Regulation revokes the current statutory rules on food additives, flavourings, food enzymes, smoke flavourings and extraction solvents and replaces them with a single statutory rule (SR).

3. Matters of special interest to the Health Committee

- 3.1 None.

4. Policy background

- What is being done and why

- 4.1 For the food enzymes, smoke flavourings and extraction solvent provisions no changes are required to the current measures. However, in the proposed regulations the extraction solvents provisions have been simplified and will refer directly to Annex I of the European Directive (as amended) with the effect that any changes to the list of permitted extraction solvents or their conditions of use will directly apply. Therefore enabling businesses to use newly authorised solvents more quickly without having to wait for UK implementing legislation.
- 4.2 Currently the Food Additives Regulations (Northern Ireland) 2009 (SR 2009 No. 416) have a dual function - as well as enforcing Regulation (EC) No. 1333/2008 on food additives, they also enable the Annexes and associated Articles of the three previous Directives on sweeteners, colours and miscellaneous additives to continue to apply by way of transitional provisions. This dual function was required until 1 June 2013 when the relevant provisions in the three Directives were transferred to Annexes II and III of Regulation (EC) No. 1333/2008 and will cease to apply.
- 4.3 An amendment is required to the Flavourings in Food Regulations (Northern Ireland) 2010 (SR 2010 no. 414) to reflect the different dates of application of the Union (positive) list of flavourings and the transitional periods as set out in Commission Regulation (EU) No. 873/2012. The existing SR simply refers to the transitional measures as set out in Article 30 of Regulation (EC) No. 1334/2008 on food flavourings and therefore does not take into account the different dates of application of the Union list as set out in Regulation (EU) 873/2012.

- 4.4 An amendment is required to a provision currently contained in the Flavourings in Food Regulations (Northern Ireland) 2010 (SR 2010 No. 414) to reflect the different dates of application of the Union (positive) list of flavourings and the transitional periods as set out in Commission Regulation (EU) No. 873/2012. The existing SR simply refers to the transitional measures as set out in Article 30 of Regulation (EC) No. 1334/2008 on food flavourings and therefore does not take into account the different dates of application of the Union list as set out in Regulation 873/2012.

5. Legislative Context

- 5.1 Harmonised European legislation controls the use of food additives, flavourings, smoke flavourings, food enzymes and extraction solvents in the European Union. In general, all the above substances are controlled by way of positive lists e.g. only authorised substances can be used in food and substances must meet specific conditions of use. For food enzymes and for certain categories of flavourings, work is underway to establish the positive lists.
- 5.2 The controls on food additives, flavourings (including smoke flavourings) and food enzymes are set out in European Regulations, which are directly applicable in all European Member States. Therefore, the national legislation in these areas only cover enforcement provisions for the relevant European Regulations, for example designating enforcement authorities, identifying which provisions of those Regulations should, if breached, constitute an offence or attract an improvement notice and specifying penalties on conviction for offences. The controls on extraction solvents are specified in European Directives and all requirements were originally transposed into national law in the Extraction solvents in Foods Regulations (Northern Ireland) 1993 (SR 1993 No. 330).

6. Parity or Replicatory Measure

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

7. European Convention on Human Rights

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

8. Consultation

- 8.1 An 8 week consultation was conducted which ended on 3 July 2013. As the SR was for the most part a simple consolidation of existing rules, a shorter consultation period was agreed. A wide range of enforcement authorities, consumer groups and industry were consulted and the consultation was available on the FSA website. One response was received to the consultation in Northern Ireland.

10. Guidance

- 10.1 No specific guidance has been prepared to accompany this SR, however separate guidance has been prepared by the FSA covering the specific rules of the European food additives legislation – Regulation 1333/2008. Guidance will be issued to enforcement officers on the use of improvement notices.

11. Equality Impact

11.1 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.

12. Impact

12.1 An Impact Assessment has not been prepared for this rule as there are no new requirements on businesses/enforcement authorities as existing legislation is being revoked and remade into a single SR. Therefore there is no additional impact on the private or voluntary sector.

13. Regulating small business

13.1 The legislation applies to all relevant food businesses. However, as this is a consolidation of existing requirements there are no new impacts on businesses.

14. Monitoring & review

14.1 The FSA will work with District Councils where problems arise or suspected infringements of the rule arise. The effectiveness of the rule will be also be monitored via general feedback from industry and Enforcement Authorities.

15. Contact

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