

## **EXPLANATORY MEMORANDUM**

### **THE FOOD LABELLING (AMENDMENT) (ENGLAND) REGULATIONS 2004 No.1512**

#### **COMPATIBILITY WITH CONVENTION RIGHTS**

1. In the Minister's view this statutory instrument (SI) is compatible with Convention Rights.

#### **POWERS UNDER WHICH THIS INSTRUMENT IS MADE**

2. The powers are sections 16(1)(e) and (f), 17(1), 26(1) and (3), and 48(1) of the Food Safety Act 1990.

#### **WIDER LEGISLATIVE CONTEXT**

3. This SI amends in relation to England the Food Labelling Regulations 1996, which implement Council Directive 90/496/EEC (SI 1996 No. 1499) in Great Britain. This SI implements Commission Directive 2003/120/EC in relation to England.
4. Directive 2003/120/EC amends Directive 90/496/EC to introduce an energy conversion factor for the reduced energy fats 'salatrimms' for use in the calculation of the declared energy value of foods containing these ingredients.

#### **POLICY BACKGROUND TO THIS INSTRUMENT**

5. Salatrimms are a group of reduced-energy fats developed for use as an alternative for 'conventional' fats. They are regarded as novel food ingredients and, according to Regulation (EC) No. 258/97 concerning novel foods and novel food ingredients, required a premarket approval for use in foods. Authorisation to market salatrimms as novel food ingredients for use in bakery products and confectionery has been given to the manufacturers, Danisco (Commission Decision 2003/867 of 1 December 2003). This authorisation is subject to certain labelling requirements for foods containing salatrimms. To ensure that the nutrition label, where given, provides appropriate and accurate information on the energy value of foods containing salatrimms, an appropriate energy conversion factor for these ingredients is required.
6. The objective of this amending Directive is to amend Directive 90/496/EEC to introduce an energy conversion factor of 6 kcal/g salatrimms (25 kJ/g salatrimms) for use in the calculation of the declared energy value of foods containing salatrimms. The energy conversion factor for 'conventional fats' of 9 kcal/g fat is inappropriate for salatrimms and would misrepresent their reduced energy content and ultimately mislead the consumer.

#### **REGULATORY IMPACTS IDENTIFIED**

7. Consultation on the draft SI identified no additional costs to industry or consumers. Costs to enforcement authorities are expected to be up to £50 000 per annum across all UK local authorities.
8. Implementing the Directive will ensure the nutrition label provides appropriate and accurate information on the energy value of foods containing salatrimms and thereby benefiting consumers and industry, and will benefit government by eliminating the risk of infraction proceedings.

**IDENTIFIABLE COSTS TO THE PUBLIC**

9. There are no identifiable costs to the public.

**IDENTIFIABLE COSTS TO THE EXCHEQUER**

10. There are no identifiable costs to the Exchequer.

**APPLICABILITY TO WALES**

11. This SI applies to England only. Parallel implementing legislation is being made in Wales.

**TRANSPOSITION NOTE**

12. A transposition note is attached Annex A

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## Annex A

### TRANSPOSITION NOTE: THE FOOD LABELLING (AMENDMENT) (ENGLAND) REGULATIONS 2004

Commission Directive 2003/120/EC amends Council Directive 90/496/EEC on nutrition labelling for foodstuffs to introduce an energy conversion factor for the reduced energy fats, salatrims. This transposition note outlines how the main elements of the Directive are transposed into legislation in England.

| Article                            | Objective  | Implementation   | Responsibility      |
|------------------------------------|--|------------------|---------------------|
| Article 1                          | Amends Article 5(1) of Directive 90/496/EEC to include an energy conversion factor for salatrims   | Regulation 4     | Secretary of State. |
| Article 2(1), first sub-paragraph  | Sets the latest date by which implementing legislation must be in force.   | Regulation 1     | Secretary of State. |
| Article 2(1), second sub-paragraph | Requires the transposition measure to contain a reference to this Directive or be accompanied by such a reference when official published. | Explanatory Note | Secretary of State. |