

EXPLANATORY MEMORANDUM TO
THE MISCELLANEOUS FOOD ADDITIVES (AMENDMENT) (ENGLAND)
REGULATIONS 2008

2008 No. 42

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

- 2 **Description**

This Statutory Instrument makes a correction to the Miscellaneous Food Additives Regulations 1995, made necessary due to a minor error in the Miscellaneous Food Additives and the Sweeteners in Food Regulations (Amendment) (England) Regulations 2007 (S.I. 2007/1778) which came into force on 25 July 2007.

- 3 **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

- 4 **Legislative Background**

- 4.1. The new Regulations are required to correct an error in the English Regulations which implement the provisions of European Parliament and Council Directive 2006/52/EC (as corrected) which itself amends European Parliament and Council Directive 95/2/EC.
- 4.2. The error relates to the entry at regulation 13 (b) (ii) of S.I. 2007/1778. This entry erroneously permits, in Part 3 of Schedule 8 to the Miscellaneous Food Additives Regulations, an additional use of the additive E 473 (sucrose esters of fatty acids) in certain specified processed cereal based foods and baby foods for infants and young children in good health. The entry should have been added to Part 4 of Schedule 8, which would permit the additive in question to be used in specified dietary foods for young children for special medical purposes, as defined in Directive 1999/21/EC, in line with the provisions of European Parliament and Council Directive 2006/52/EC.
- 4.3. Council Directive 2006/52/EC of 5 July 2006 was published in the Official Journal of the European Communities (L204/10) on 26 July 2006 and amends Directive 95/2/EC for the sixth time. The Directive sets out lists of authorised miscellaneous additives, the foodstuffs in which they may be used and their conditions of use.. A Corrigendum to Directive 2006/52/EC was published on 17th March 2007 (OJ No. L78, p32). An Explanatory Memorandum on this dossier cleared scrutiny in the House of Commons on 10 November 2004 and 3 October 2005.

5. Extent

The correction is required to the English and Northern Ireland Regulations only. The legislation in Scotland and Wales, which came into force at a later date, does not require correction.

6. European Convention on Human Rights

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

7 Policy Background

7.1 European Parliament and Council Directive 95/2/EC forms part of the Single Market initiative on the use of additives and sweeteners in the European Union and ensure consumer protection measures are in place in relation to miscellaneous additives.

7.2 Directives 95/2/EC was amended on this occasion to incorporate recent technical and scientific developments in relation to miscellaneous additives.

8 Impact

The main impact of the erroneous entry relating to E 473 would fall on producers of infant foods, represented in the UK by the Infant and Dietetic Foods Association (IDFA), who were amongst the interested parties consulted on S.I. 2007/1778 when it was in draft form and on an accompanying Regulatory Impact Assessment. No stakeholders, including the IDFA, commented on the entry relating to E 473, either during the initial consultation on the draft Regulations or after the Regulations had come into force. The error was in fact spotted by lawyers for the Scottish Executive doing comparative checks prior to making their own S.S.I, whereupon stakeholders in England and Northern Ireland were immediately alerted to it, informed that a correction would be made as soon as possible and reminded that the use of E 473 in the foods in question should be restricted to those which fall within the scope of Part 4 of Schedule 8 i.e. dietary foods for young children for special medical purposes as defined in Directive 1999/21/EC.

The correction is not considered to impose any identifiable costs to the public or the Exchequer.

9 Contact

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