EXPLANATORY MEMORANDUM TO

THE FOOD INFORMATION REGULATIONS 2014

2014 No. 1855

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The main purpose of the Food Information Regulations ("FIR") is to put enforcement provisions in place to enable certain provisions of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers ("EU FIC")[1] to be enforced in England. The new Regulations also consolidate existing general food and nutrition labelling Regulations in England. The main changes introduced by EU FIC are outlined at Annex E of the Impact Assessment. In addition, the Regulations take advantage of derogations contained in EU FIC and carry forward some (EU permitted) national measures.

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

3.1 None.

4. Legislative Context

4.1 Until now, the main EU Directive governing general food labelling has been Directive 2000/13/EC. This was implemented by the Food Labelling Regulations 1996, which also implemented other EU food provisions, e.g. relating to nutrition labelling. Directive 2000/13/EC and other EU food legislation, including Directive 90/496/EEC on nutrition labelling of foodstuffs, are being repealed and replaced by EU FIC. This will result in the revocation of the Food Labelling Regulations 1996 and their replacement by these new Regulations. The EU FIC sets common definitions, general principles, requirements and responsibilities to provide a clear framework and a common basis for EU and national measures governing food information, and in particular food labelling.

4.2 Most of the Food Labelling Regulations 1996 will be revoked on 13th December 2014. What is left (certain provisions to do with alcohol descriptions and cream and

[1] The full title is: Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ No L 304, 22.11.2011, p 18).

cheese descriptions) will be revoked four years later on 13th December 2018. The Food Labelling Regulations 1996 are also amended by the new Regulations. They are amended on 15 August 2014 (the first coming into force date) to take account of certain transitional provisions that apply under EU FIC before the main provisions of EU FIC apply on 13th December 2014. They are amended on 13th December 2014 to take account of the application of the provisions of EU FIC, and the revocation of most of the provisions of the Food Labelling Regulations 1996, on that date. The amendments made on 13th December 2014 will support the continued application of the provisions in the 1996 Regulations to do with alcohol, cream and cheese descriptions until those provisions are revoked on 13th December 2018.

4.3 The Regulations contain provisions that make references to the directly applicable provisions of EU FIC in selected provisions of the Regulations ambulatory, i.e. those references will be references to the relevant EU FIC provisions as amended from time to time. Schedule 1 to the Regulations sets out the provisions of the Regulations that contain the ambulatory references. Some of the EU FIC provisions are in the Annexes to EU FIC and some of them are in the main body of EU FIC but all are technical in nature. This use of ambulatory references will avoid the need to introduce new Regulations every time any of those provisions are amended by EU legislation. However, any proposal to amend EU FIC will be subject to scrutiny before the UK votes on it. This will include the preparation of an Explanatory Memorandum by the Department explaining what the UK thinks about the proposal and what the implications of it are and scrutiny by Parliamentary Scrutiny Committees.

4.4 An Explanatory Memorandum on the draft Regulation on the Provision of Food Information to Consumers was submitted to the House of Lords Select Committee on the European Union (6172/08, 9 April 2008 followed by a supplementary EM on 16 December 2008),and the House of Commons Scrutiny Committee (17549/10, 9 April 2008).The House of Lords European Scrutiny Committee noted that the proposal would re-enact and clarify many of the existing measures in this area, and that the changes proposed would be relatively modest (and, it would appear, generally welcomed). Following the supplementary EM they concluded that the proposal did not raise any major issues, it was supported by the UK and the committee cleared the proposal. The House of Commons European Scrutiny Committee also cleared the proposal.

5. Territorial Extent and Application

5.1 The main provisions of the Regulations, i.e. the enforcement provisions, the derogations and implementing provisions for irradiated foods and for chocolate products, apply to England.

5.2 However, some of the revocations and consequential amendments (Schedules 6 and 7) have a wider territorial application. Basically, the revocations and consequential amendments have the same territorial application as the statutory instruments that they revoke or amend except in the case of pre-devolution instruments that applied to Great Britain. In those cases, because the subject matter is now devolved and the revocations

and consequential amendments will be dealt with by the other national Governments, the territorial application of the revocations and consequential amendments made by the new Regulations is limited to England.

5.3 Scotland, Wales and Northern Ireland are introducing their own separate but parallel instruments to similar timescales.

6. European Convention on Human Rights

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

7. Policy background

7.1 The EU FIC came into force in the EU on 13th December 2011. EU FIC provisions on minced meat composition applied from 1st January 2014 and most pre-packed foods will require nutrition declarations from 13th December 2016. The remainder of the requirements in EU FIC apply from 13th December 2014.

7.2 The EU FIC is a wide-ranging piece of EU legislation regulating food information and requires mandatory particulars on food labels such as: name of food, ingredients list, quantitative indication of ingredients (QUID), allergen information, nutrition information, country of origin, date marks, storage conditions.

7.3 The overall aims of FIC are: to allow consumers to have the information they need to make informed and healthy food choices, and to ensure they are not being misled; and to protect consumers with food allergies and intolerances by providing them with sufficient and clear information to make safe food choices.

7.4 The Regulations are necessary to provide powers to enforce the provisions set out in EU FIC and to remove any overlapping UK food labelling legislation thus meeting the UK's legal obligations. The Regulations meet our domestic policy aims by including a proportionate, effective and risk-based approach to the enforcement of the directly applicable EU FIC. They also take advantage of optional derogations and (as in the Food Labelling Regulations 1996) include EU-permitted national measures requiring the name of the food to be given in the case of certain foods that are not pre-packed and foods that are packed on the sales premises at the consumer's request or pre-packed for direct sale ('non-prepacked foods') and a meat quantity indicator to be given for non-prepacked foods containing meat.

7.5 The Regulations also implement in England:

(a) certain provisions of Article 6 of Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation (OJ No L 66, 13.3.1999, p.16); and

(b) the second paragraph of subparagraph 1 of Article 3 of Directive 2000/36/EC of the European Parliament and of the Council relating to cocoa and chocolate products intended for human consumption (OJ No L 197, 3.8.2000, p.19).

7.6 Most of the implementing provisions relating to Directive 1999/2/EC are contained in the Food Irradiation (England) Regulations 2009 (S.I. 2009/1584). Most of the implementing provisions relating to Directive 2000/36/EC are contained in the Cocoa and Chocolate Products (England) Regulations 2003 (S.I. 2003/1659). However, the Food Labelling Regulations 1996 (which the new Regulations will replace) contain some food labelling provisions relating to irradiated food and cocoa and chocolate products. It is these provisions that the new Regulations carry forward with some changes. In the case of the irradiated food provisions, the relevant provision is in regulation 8 in the main body of the Regulations. Because regulation 8 is concerned with implementing provisions in Directive 1999/2/EC, the wording used in regulation 8 is based on the wording used in that Directive and not EU FIC. In the case of cocoa and chocolate products, this is done by amending the Cocoa and Chocolate Products (England) Regulations 2003 (paragraph 32 of Schedule 6, the new regulation 5(d)). Transposition tables for Directives 1999/2/EC and 2000/36/EC are attached identifying the provisions of those Directives implemented by these Regulations (see Annexes 1 and 2 respectively).

7.7 The Regulations also amend the Food (Lot Marking) Regulations 1996, in England, to take account of the repeal and replacement of Council Directive 89/396/EEC (OJ No L 186, 30.6.1989, p.12) by Directive 2011/91/EC of the European Parliament and of the Council on indications or marks identifying the lot to which a foodstuff belongs (OJ No L 334, 16.12.2011, p.1). The Regulations also revoke relevant statutory instruments and make consequential amendments to take into account the repeal and replacement of Directive 2000/13/EC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs by EU FIC, as well as the revocation and replacement of the Food Labelling Regulations 1996 by the new Regulations.

7.8 In addition, as part of the Red Tape Challenge (RTC) Exercise covering the Hospitality theme, Defra committed to consolidate rules on food labelling to simplify the regulatory landscape in this area at the same time as implementing the new EU provisions.

7.9 In line with Government policy, a change to the existing enforcement regime has also been taken forward with a move away from the across-the-board use of frontline criminal offences to a more proportionate and targeted regime using improvement notices. A backstop criminal offence will be in place where there is failure to comply with an improvement notice, with an offender being liable, on summary conviction, to a fine not exceeding level 5 (currently £5,000 but this will change when section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is commenced). Criminal offences will continue for the contravention of certain provisions, namely mislabelling of foods containing allergens because a failure to comply with the allergen provisions may result

in a risk to consumer health and safety. Businesses will have the opportunity to appeal against an improvement notice to the First-tier Tribunal.

7.10 Schedule 5 to the Regulations lists all the FIC provisions in relation to which it will be possible to serve an improvement notice in cases of non-compliance. However, the improvement notice provisions in the Regulations will not apply where there is a contravention of one of the provisions listed in Schedule 5 and that contravention relates to the mandatory particular relating to net quantity. Enforcement of Article 9(1)(e) and Article 23 of FIC (which are not listed in Schedule 5), and, to the extent that they apply to the mandatory particular relating to net quantity, the other provisions of FIC listed in Schedule 5, e.g. the requirement for a minimum font size to be used under Article 13 of FIC for the mandatory particular relating to net quantity, will be provided for in weights and measures legislation being made by the Department for Business, Innovation and Skills.

7.11 Some of the main aspects included in the instrument of particular interest are:

(a) Derogations

- Inclusion of a derogation of not requiring all the mandatory particulars for milk and milk products presented in glass bottles intended for re-use. This is because it avoids unnecessary additional burdens and enables an effective re-use of materials.
- Inclusion of a derogation for minced meat that does not comply with the fat and/or collagen compositional requirements of EU FIC. Such products will have to be labelled with a national mark indicating that they are for the UK market only.

(b) National Measures (permitted by EU FIC)

- A national provision that the 'name of food' should be provided for non-prepacked foods (excluding non-prepacked foods sold by mass caterers to a final consumer). This is similar to the national measure that already exists in the Food Labelling Regulations 1996.
- A national provision requiring a 'quantitative indication of ingredients' (QUID) of the meat content of non-prepacked meat products (excluding non-prepacked meat products sold by mass caterers to a final consumer). This is similar to the national measures that already exist in the Food Labelling Regulations 1996.
- A national provision allowing information on allergens for non-prepacked foods to be provided in any manner including orally. Where oral communication is used, there must be clear indication via a label attached to the food, or on a notice/menu/ticket/label that the allergen information can be obtained from a member of staff. Unlike the national provisions relating to the name of the food and the quantity indicator for products containing meat, this national provision applies in the case of non-prepacked foods sold by mass caterers to a final consumer and provision is therefore made allowing for the necessary information to be given on a menu.

(c) Other National Measures

- National composition rules on ice cream will be revoked on 13th December 2014.

- National composition and labelling rules on cheese, cream and alcohol-related descriptions will be revoked on 13th December 2018. During the four years from the coming into force date of the EU FIC, work will be done with consumers, industry and enforcement authorities to consider what, if anything, might be appropriate in terms of the future control and protection of these products.

(d) Other Labelling Requirements

- There is a requirement that the words "irradiated" or "treated with ionising radiation" must be provided when irradiated food products or food products containing an irradiated ingredient are sold in bulk and when irradiated ingredients are used in certain pre-packed foods. This implements certain provisions of Article 6 of Directive 1999/2/EC which go beyond the general requirement in the EU FIC for providing this indication for irradiated food and replaces a similar provision in the Food Labelling Regulations 1996.

(e) Enforcement

- As outlined above, Government policy is to ensure sanctions are proportionate to any contravention of the relevant EU and national provisions. Therefore, the enforcement regime will be primarily an improvement notice system backed up with criminal offences where there is a failure to comply with an improvement notice. However, frontline criminal offences will continue for contravention of allergen provisions because of the potential harm to human health. In the case of such contraventions, the enforcement authority will still be able to use improvement notices but will also have the option of a frontline criminal offence.

- The Regulations apply and modify section 10 of the Food Safety Act 1990. The application and modifications of section 10(1) enable an improvement notice to be served requiring compliance with specified requirements of EU FIC and the specified national measures. Section 10(2) of the Food Safety Act 1990, as applied, will make the failure to comply with an improvement notice an offence.

- Food authorities (as defined in the Regulations) and port health authorities will be under a duty to enforce the Regulations. Food authorities (as defined in the Regulations) do not include non-metropolitan district councils for an area for which there is a county council. However, non-metropolitan councils for such areas will have a power to enforce certain allergens-related provisions. This power will be in addition to the enforcement functions of the county council in such areas. Where a county council and a non-metropolitan district council both have enforcement functions in the same area, there will be co-ordination of controls via the local authority Food Groups. The Food Standards Agency will liaise with the local authorities on this issue.

- Consolidation

7.12 The new Regulations consolidate existing rules on food and nutrition labelling into one new set of regulations. Once the Food Labelling Regulations 1996 are revoked

in their entirety (this will happen on 13th December 2018), the number of regulations regulating food labelling in relation to food in general will decrease from 17 to one, making it easier for industry and enforcement authorities by having all the general food labelling rules together in one set of domestic Regulations. Fourteen regulations are revoked on 13th December 2014 with the remaining three regulations (concerning alcohol descriptions, cream and cheese), including what is left of the Food Labelling Regulations 1996, being revoked on 13th December 2018.

8. Consultation outcome

8.1 A 12-week consultation was held from 7th November 2012 to 30th January 2013 which sought the views of stakeholders on the new Regulations and the Consultation Stage Impact Assessment (IA). A total of 108 responses were received, 63 from organisations (including enforcement bodies, Government agencies, trade organisations and food businesses) and 45 from members of the public. In addition to the formal consultation, Defra, the Food Standards Agency (FSA), and the Department of Health (DH) have engaged with industry stakeholders around a number of issues since the consultation ended. The DEFRA consultation letter and a summary of responses to DEFRA's consultation can be found at www.gov.uk.

8.2 The overall view of respondents was that they supported the need for domestic legislation in order to make the EU FIC workable and enforceable in the UK. There was general support for the take up of EU-permitted derogations on: (a) not requiring labelling of all the mandatory particulars on milk and milk products presented in glass bottles intended for re-use to avoid unnecessary additional burdens and enable an effective re-use of materials; and (b) minced meat to be marketed that does not meet the EU FIC compositional criteria for fat and collagen provided such products are labelled with a national mark.

8.3 The majority of respondents were in favour of retaining existing national measures requiring the 'name of food' for non-prepacked foods and the meat QUID for non-prepacked meat products for reasons of consumer information clear enforcement, and a level playing field for business. In terms of other national provisions, there was support for retaining the cream and cheese standards for a further four years. During this time there will be an opportunity to consider the longer-term position in relation to these standards. Respondents agreed that the national compositional provisions for ice cream could be revoked when the EU FIC comes into force given that there is a European 'Euroglaces' Code governing ice cream products which is regularly reviewed and updated, which will make it easier to recognise product innovation in the sector (e.g. lower fat ice creams).

8.4 One organisation questioned the move from frontline criminal sanctions to improvement notices backed up with criminal sanctions for a failure to comply with an improvement notice, as it felt the current enforcement system worked well. However, the Government's policy is to move away from the use of frontline criminal sanctions

wherever possible, particularly in cases where a breach of food related provisions does not have any food safety implications for consumers.

9. Guidance

9.1 Draft food labelling guidance notes to reflect the new Regulations were prepared as part of the consultation. An updated version of these guidance notes has been shared with interested parties for their feedback and is being further refined to accompany the Regulations. Defra is currently reviewing all of its existing guidance material with the aim of reducing and simplifying the material it produces. The simplified guidance will be available to interested parties, including enforcement authorities, on the gov.uk website.

9.2 In relation to regulations 6(5) and 7(5) of the Regulations, the guidance will make it clear that in the case of the requirement to name 'non-prepacked foods' and provide a quantity indicator for non-prepacked meat products, the EU FIC provisions on the presentation of mandatory information will apply where these products are offered for sale by means of distance communication. Unlike for non-distance communication sales (to which regulations 6(4) and 7(5) apply), there are no special national provisions laid down in the new Regulations for the way in which that information is presented.

10. Impact

10.1 According to the Impact Assessment, the impact on business of the FIR is estimated to result in an overall net cost of £7,000 in addition to costs directly associated with the EU FIC.

10.2 This figure includes the costs to the public sector. The move towards greater use of improvement notices as opposed to criminal sanctions has a beneficial impact on the public sector. This is viewed as a more proportionate approach for less serious regulatory infringements such as non-food safety labelling infringements. The change should also benefit the Court system by reducing the number of cases that would be heard in a Magistrates Court.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 In accordance with EU FIC, the legislation applies to small business.

11.2 The vast majority of firms in the food industry are small businesses, though both the retail and food manufacturing sectors are dominated by a few very large businesses. Consolidation and simplification of much of the existing regulatory environment will, following a period of adjustment, benefit all businesses including small businesses.

12. Monitoring & review

12.1 The basic purpose of the Regulations is to enable the directly applicable provisions of EU FIC to be enforced in a proportionate and effective way.

12.2 A review clause in the Regulations requires that the Regulations be reviewed before 13th December 2019. As part of that review checks will be carried out to determine whether enforcement of EU FIC under the Regulations has been proportionate and effective. This will include looking at the powers and mechanisms available in other Member States relating to the enforcement of EU FIC. The conclusions of the review must be set out in report to be published before 13th December 2019. Reviews must be carried out and reports published within every five years after that.

13. Contact

Ms Pendi Najran at the Department for Environment, Food and Rural Affairs (Defra) Tel: 0207 238 4348 or email: pendi.najran@defra.gsi.gov.uk can answer any queries regarding the instrument.

Annex 1

Updated Transposition Note for Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation[2] (showing the position as it will be on 13th December 2014)

This updated Transposition Note sets out how, as at 13th December 2014, Directive 1999/2/EC ("the Directive") will be transposed in England. This will be by a combination of the continuing provisions of the Food Irradiation (England) Regulations 2009[3] ("the 2009 Regulations") (most of the transposition provisions for the Directive will be in those Regulations) and some labelling provisions contained in regulation 8 of the Food Information Regulations 2014. Regulation 8 of the Food Information Regulations 2014 will come into force on 13th December 2014.

Basically, up until now, the Directive has been transposed by the 2009 Regulations with additional provisions in the Food Labelling Regulations 1996[4] transposing certain labelling provisions in Article 6 of the Directive. Transposition of Article 6 has been split between the 2009 Regulations and the Food Labelling Regulations 1996, with the 2009 Regulations transposing Article 6 of the Directive insofar as it relates to foods not intended for the ultimate consumer and mass caterers and the Food Labelling Regulations 1996 transposing that Article insofar as it relates to food intended for the ultimate consumer and mass caterers. However, the relevant provisions of the Food Labelling Regulations 1996 transposing the Article 6 provisions insofar as they relate to food intended for the ultimate consumer and mass caterers are (along with many other provisions in the 1996 Regulations) being revoked on 13th December 2014.

The revocation of most of the provisions of the Food Labelling Regulations 1996 on 13th December 2014 is being done as part of a wider exercise to put domestic legislation in place to enforce in England the directly applicable provisions of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers[5]. As a result, the Food Information Regulations 2014 will contain a new regulation – regulation 8 - implementing certain labelling provisions in Article 6 of the Directive.

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[2] OJ No L 66, 13.3.1999, p 16, last amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ No L 311, 21.11.2008, p 1).
[3] S.I. 2009/1584, amended by S.I. 2010/2312 and 2011/1043.
[4] S.I. 1996/1499, relevant amending instruments are S.I. 1999/747, 2000/2254, 2004/2824.
[5] OJ No L 304, 22.11.2011, p 18, last amended by Commission Delegated Regulation (EU) No 78/2014 (OJ No L 27, 30.1.2014, p 7).

The end result will be that, as at 13th December 2014, the 2009 Regulations and regulation 8 of the Food Information Regulations will, as read with the directly applicable provisions in Regulation (EU) No 1169/2011, transpose the Directive.

Regulation (EU) No 1169/2011 contains specific provisions relating to irradiated foods. Point 3 of Part A of Annex VI to Regulation (EU) No 1169/2011 requires foods treated with ionising radiation to bear an "irradiated" or "treated with ionising radiation" indication and other indications as stated in Directive 1999/2/EC.

In addition, the more general requirements of Regulation (EU) No 1169/2011 will apply to irradiated foods, e.g. the provisions of Article 8 of the Regulation laying down the responsibilities of food business operators, including the responsibilities for food business operators to provide mandatory food information to other food business operators, and Article 13.1 requiring mandatory food information to be marked in a conspicuous place in such a way as to be easily visible, clearly legible and, where appropriate, indelible. Article 13.1 of Regulation (EU) No 1169/2011 also provides that mandatory food information must not be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any intervening material. The expression "mandatory food information" is defined in Article 2.2(c) of Regulation (EU) No 1169/2011 as meaning "the particulars that are required to be provided to the final consumer by Union provisions", i.e. the obligations do not just relate to the food particulars that are mandatory by virtue of Regulation (EU) No 1169/2011.

Responsibility for implementation lies with the Secretary of State, save where indicated in the table below.

Provision of Directive	**Objective**	**Implementation**	**Responsibility**
Article 1	To specify the products to which the Directive applies and those to which it does not apply	Regulation 2 of the 2009 Regulations	
Article 2	To require Member States to ensure that irradiated foods can be placed on the market only if they comply with the Directive	Regulation 7 of the 2009 Regulations	
Article 3.1, first sentence	To impose conditions for the authorisation of the irradiation of	Paragraphs 2(c) to (g) of Part 1 of Schedule 2 to the 2009 Regulations	

Provision of Directive	Objective	Implementation	Responsibility
	food		
Article 3.1, second sentence	To require food to be in a wholesome state	Regulation 4(1)(b) of the 2009 Regulations	
3.2, first sentence	To require irradiation to be carried out only by means of specified sources To require observance of the Code of practice specified in Article 7(2) of the Directive (the Joint FAO/WHO Codex Alimentarius Commission Recommended International Code of Practice for the operation of irradiation facilities used for the treatment of foods (reference FAO/WHO/CAC, volume XV, edition 1)	Paragraph 5 of Part 3 of Schedule 2 to the 2009 Regulations Paragraphs 1(g) and 2(a) of Part 1 of Schedule 2 to the 2009 Regulations	
Article 3.2, second sentence	To specify the method of calculation of the overall average absorbed dose	Paragraphs 1(g) and 2(l) of Part 1 of Schedule 2 to the 2009 Regulations	
Article 4.1 to 4.3	To provide for an implementing Directive to be adopted establishing a complete list of foodstuffs which may be irradiated and maximum radiation doses	Directive 1999/3/EC of the European Parliament and of the Council on the establishment of a Community list of foods and food ingredients treated with ionising radiation[6] has been adopted but a Directive to complete the list not yet adopted.	European Commission to submit proposal

[6] OJ No L 66, 13.3.1999, p 24.

Provision of Directive	Objective	Implementation	Responsibility
Article 4.4	To permit Member States to maintain existing authorisations regarding the irradiation of food until the entry into force of the implementing Directive referred to in Article 4.1 (establishing a complete list of the foodstuffs which may be irradiated)	Regulation 3(2)(c) and(d) (permitted categories of food) of, and paragraph 2(b) of Part 1 and paragraph 1(1)(a) of Part 3 of Schedule 2 to, the 2009 Regulations are among the provisions which (by continuing a licensing regime) maintain existing authorisations.	
Article 4.5	To permit Member States to authorise the irradiation of foodstuffs for which authorisations have been maintained by another Member State until the entry into force of the implementing Directive referred to in Article 4.1 (establishing a complete list of the foodstuffs which may be irradiated)	There have been no authorisations in other Member States for which there is a demand to provide provision for authorisation extra to the authorisations already provided for in the 2009 Regulations.	
Article 4.7	To permit Member States to continue to apply existing national restrictions on irradiation or trade in irradiated food until the entry into force of the implementing Directive referred to in Article 4.1 (establishing a complete list of the foodstuffs which may be irradiated)	The Regulations continue to apply such restrictions by virtue of the fact that only the “permitted categories of food” listed in regulation 3(2)(c) of the 2009 Regulations can be irradiated. This means that food falling outside of those categories cannot be irradiated.	
Article 5.1, first sentence	To prohibit the maximum dose from being exceeded	Paragraph 6 of Part 3 of Schedule 2 to the 2009 Regulations prohibits irradiation save	

Provision of Directive	Objective	Implementation	Responsibility
		by "proper irradiation". Regulation 3(2)(a) of the 2009 Regulations defines what is meant by "proper irradiation". This includes a requirement that the food is not "over-irradiated". Regulation 3(2)(e) of the 2009 Regulations defines "over-irradiated" by reference to maximum ionising radiation doses.	
Article 5.1, second sentence	To prohibit the use of irradiation in combination with chemical treatment	Paragraph 3(1) of Part 3 of Schedule 2 to the 2009 Regulations	
Article 5.2	To enable the European Commission, by Directive, to provide exceptions to the Article 5.1 requirements	The Commission has not adopted a Directive providing for any such exceptions.	European Commission
Article 6.1 and 6.3	To require irradiated food intended for the ultimate consumer and mass caterers to be labelled in a particular way	The directly applicable provisions of point 3 of Part A of Annex VI to Regulation (EU) No 1169/2011 applies in relation to the sale of prepacked irradiated foods to the final consumer or mass caterer (requiring relevant foods to bear an "irradiated" or "treated with ionising radiation" indication and other indications as stated in Directive 1999/2/EC). Regulation 8 of the Food Information Regulations 2014 will apply as from 13th December 2014 as regards foods placed on the market in bulk, requiring an	

Provision of Directive	Objective	Implementation	Responsibility
		"irradiated" or "treated with ionising radiation" indication to appear together with the name of the product on a display or notice above or beside the container in which the relevant foods are placed. Note: under Regulation (EU) No 1169/2011 it is not mandatory for the irradiation indications to be given in the case of the marketing of non-prepacked food. To this extent, Article 6 of Directive 1999/2/EC goes further than Regulation (EU) No 1169/2011 in making it mandatory for such an indication to be given in the case of such foods. Regulation 8 of the Food Information Regulations 2014, in implementation of the second subparagraph of Article 6.1(a) and the second subparagraph of Article 6.1(b) of Directive 1999/2/EC fills that gap by requiring the status of irradiated foods sold in bulk to be identified using the relevant irradiation indicator. Regulation 8 of the Food Information Regulations 2014 also applies to irradiated packaged foods to which the compound	

Provision of Directive	Objective	Implementation	Responsibility
		ingredients exemption in point 2 of Part E of Annex VII to Regulation (EU) No 1169/2011 would otherwise apply. It requires the relevant irradiation indication to be used to indicate the irradiated ingredients used in compound ingredients in foodstuffs. To this extent, Article 6 of Directive 1999/2/EC goes further than Regulation (EU) No 1169/2011 in making it mandatory for a relevant indication to be given. The directly applicable provisions of Article 8.6 of Regulation (EU) No 1169/2011 (relating to the provision of mandatory food information) will apply from 13th December 2014 in the case of a wholesale transaction where a food business operator supplies another food business operator with non-prepacked food intended (further along the chain) for the final consumers or supply to mass caterers. Article 8.7 of Regulation (EU) No 1169/2011 (relating to the provision of mandatory food information) will apply from 13th December 2014 in relation to	

Provision of Directive	Objective	Implementation	Responsibility
		the sale of prepacked irradiated foods intended for the final consumer but marketed at a stage prior to sale to the final consumer (i.e. wholesale sales) and to prepacked irradiated food that is intended for supply to mass caterers for preparation, processing, splitting or cutting up.	
Article 6.2 and 6.3	To require irradiated food not intended for the ultimate consumer and mass caterers to be labelled in a particular way	Regulation 8 of the 2009 Regulations	
Article 7.1 and 7.3	To require Member States to forward certain information to the European Commission relating to the approval, and modification and withdrawal of approval, of irradiation facilities, official controls and inspections etc.	Does not require express implementation as it has direct effect	
Article 7.2	To prohibit the approval of facilities by Member States unless the facility complies with the Code of Practice specified in Article 7.2 (the Joint FAO/WHO Codex Alimentarius Commission Recommended International Code of Practice for the operation of irradiation facilities used for the treatment of foods (reference	Paragraphs 1(g) and 2(a) of Part 1 of Schedule 2 to the 2009 Regulations Note: the Commission has not, to date, adopted a Directive laying down any supplementary requirements.	

Provision of Directive	Objective	Implementation	Responsibility
	FAO/WHO/CAC, volume XV, edition 1)) and any supplementary requirements which may be adopted (by Directive) by the European Commission To require the designation of a person as the person responsible for compliance	 Paragraphs 1(i) of Part 1 of Schedule 2 to the 2009 Regulations	
Article 7.4	To impose an obligation on the European Commission to publish the details of approved facilities etc. notified under Article 7.3 of the Directive in the Official Journal and an annual report based on information provided by the national supervisory authorities	Does not need implementation by Member States	European Commission
Article 8	To require irradiation facilities to keep records	Paragraphs 8 to 10 of Part 3 of Schedule 2 to the 2009 Regulations	
Article 9.1	To impose conditions on the importation of irradiated food from a third country, including the condition that the food must have been irradiated in a facility approved by the EU and appearing on a published	Regulation 5 to the 2009 Regulations	

Provision of Directive	Objective	Implementation	Responsibility
	list		
Article 9.2	To impose an obligation on the European Commission to draw up the list of approved facilities referred to in Article 9.1 of the Directive and to publish that list in the Official Journal	Imposes obligations on the European Commission. Does not need implementation by Member States	European Commission
Article 10	To require the packaging of food which is to be irradiated to be suitable for the purpose	Paragraphs 1(f)(v) and 2(m) of Part 1 of Schedule 2 to the 2009 Regulations	
Article 11	To provide for amendments to be made to the Annexes	No Member State transposition necessary	European Commission
Article 12	To provide for the Commission to be assisted by the Standing Committee on the Food Chain and Animal Health etc.	No Member State transposition necessary	The Standing Committee on the Food Chain and Animal Health
Article 13	To require the Scientific Committee on Food to be consulted on any matter falling within the scope of the Directive likely to have an effect on public health	No Member State transposition necessary	
Article 14	To permit Member States temporarily to suspend the application of Directive provisions in certain circumstances etc., to inform other Member States and the	No Member State transposition necessary unless the Member State has proof that there is danger to human health	

Provision of Directive	Objective	Implementation	Responsibility
	Commission if it does so and for the Commission to examine the issue and take such consequential measures as may be necessary		
Article 15	To impose an obligation on Member States to transpose the Directive	As at 13th December 2014 the Directive will be transposed by the 2009 Regulations and regulation 8 of the Food Information Regulations 2014 as read with the directly applicable provisions of Regulation (EU) No 1169/2011, in particular, point 3 of Part A of Annex VI to that Regulation.	
Article 16	To provide for the entry into force of the Directive	No transposition is necessary	
Article 17	To address the Directive to Member States	No transposition is necessary	
Annex I	To require irradiation to be carried out only by means of specified sources To require observance of the Code of practice specified in Article 7(2) of the Directive (the Joint FAO/WHO Codex Alimentarius Commission Recommended International Code of Practice for the operation of irradiation facilities used for the	Paragraph 5 of Part 3 of Schedule 2 to the 2009 Regulations Paragraphs 1(g) and 2(a) of Part 1 of Schedule 2 to the 2009 Regulations	

Provision of Directive	Objective	Implementation	Responsibility
	treatment of foods (reference FAO/WHO/CAC, volume XV, edition 1))		
Annex II	To require irradiation to be carried out only by specified sources	Paragraph 5 of Part 3 of Schedule 2 to the 2009 Regulations	
Annex III	To specify the method of calculation of the overall average absorbed dose	Schedule 1 and paragraph 2(l) of Part 1 of Schedule 2 to the 2009 Regulations	

Annex 2

Updated transposition Note for Directive 2000/36/EC of the European Parliament and Council relating to cocoa and chocolate products intended for human consumption[7] (showing the position as it will be on 13th December 2014)

This updated Transposition Note sets out how, as at 13th December 2014, Directive 2000/36/EC will be transposed in England. As at that date it will be transposed by the continuing provisions of the Cocoa and Chocolate Products (England) Regulations 2003[8] ("the 2003 Regulations") as amended by provisions of the Food Information Regulations 2014 that come into force on 13th December 2014.

Basically, up until now, the Directive has been transposed by the 2003 Regulations with an additional provision in the Food Labelling Regulations 1996[9] transposing the second subparagraph of point 1 of Article 3 of the Directive. However, the relevant provision of the Food Labelling Regulations 1996 relating to that Directive provision is (along with many other provisions) being revoked on 13th December 2014. This is as part of a wider exercise to put domestic legislation in place to enforce in England the provisions of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers[10]. As a result, the Food Information Regulations 2014 will amend the 2003 Regulations to include a new provision in those 2003 Regulations transposing the second subparagraph of point 1 of Article 3 of the Directive. The end result will be that, as at 13th December 2014, all of the Directive provisions will be transposed by provisions in the 2003 Regulations, as amended.

Provision of Directive	**Objective**	**Implementation**	**Responsibility**
Article 1	To define cocoa and chocolate products	Regulation 2(1) of the 2003 Regulations (definitions of "designated product" and "reserved description") as read with Schedule 1 and regulation 4	The Secretary of State
Article 2	To provide for the use of vegetable	Regulations 3, 6(1)(b) and 7(2) and Schedule	As above

[7] OJ No L 197, 3.8.2000, p 19, last amended by Regulation (EU) No 1021/2013 of the European Parliament and of the Council (OJ No L 287, 29.10.2013, p 1).
[8] S.I. 2003/1659, amended by S.I. 2005/2626 and, on 13th December 2014, the Food Information Regulations 2014.
[9] S.I. 1996/1499, to which there are amendments not relevant to this transposition note.
[10] OJ No L 304, 22.11.2011, p 18, last amended by Commission Delegated Regulation (EU) No 78/2014 (OJ No L 27, 30.1.2014, p 7).

Provision of Directive	Objective	Implementation	Responsibility
	fats in chocolate products	2	
Article 3: opening words	To confirm the application of the general labelling Directive[11]	Regulation 6 (as amended on 13th December 2014 by paragraph 34 of Schedule 7 to the Food Information Regulations 2014). Regulation (EU) No 1169/2011 is directly applicable in any event.	As above
Article 3.1, first subparagraph	To reserve sales names to the defined products and to require their use in trade	Regulations 5(a) to (c) and 6(1)(a). Note: regulation 5(b) and (c) will be substituted by paragraph 33 of Schedule 7 to the Food Information Regulations 2014 on 13th December 2014 but there is no change in the substance of the provisions, the substitutions being a mode of drafting concerned with the addition of new paragraph (d).	As above
Article 3.1, second subparagraph	To permit the additional use of the sales names in accordance with the provisions or customs applicable to the Member State	Regulations 5(d) of the 2003 Regulations (as inserted in the 2003 Regulations by paragraph 33 of Schedule 7 to the Food Information Regulations 2014)	As above
Article 3.2	To provide for the labelling of chocolate assortments	Regulation 6(2)	As above

[11] As at 13th December 2014, the reference to Directive 79/112/EEC in Article 3 of the Directive must be construed as a reference to Regulation (EU) No 1169/2011 by virtue of Article 26(2) of Directive 2000/13/EC (which converted references to Directive 79/112/EEC in EU legislation into references to Directive 2000/13/EC) and Article 53(2) of Regulation (EU) No 1169/2011 (which will convert references to Directive 2000/13/EC in EU legislation into references to Regulation (EU) No 1169/2011).

Provision of Directive	Objective	Implementation	Responsibility
Article 3.3	To require indication of cocoa solids content	Regulation 6(1)(d) and (4)	As above
Article 3.4	To require indication of cocoa butter content on fat-reduced cocoas	Regulation 6(1)(e)	As above
Article 3.5	To impose restrictions in relation to chocolate for which supplementary indications relating to quality may be used	Regulation 6(3)	As above
Article 4	To prohibit national provisions being adopted that are not provided for in the Directive	In compliance with Article 4 of the Directive, the 2003 Regulations do not contain any such national provisions.	As above
Article 5	To provide for implementation measures	No Member State transposition necessary	The European Commission
Article 6	To provide for the Commission to be assisted by the Standing Committee on the Food Chain and Animal Health etc.	No Member State transposition necessary	The Standing Committee on the Food Chain and Animal Health
Article 7	To provide for the repeal of Council Directive 73/241/EEC and for the interpretation of references to that Directive in other legislation	No Member State transposition necessary but the 2003 Regulations transposed the replacement Directive (2000/36/EC) and replaced the previous national Regulations that implemented Council Directive 73/241/EC.	N/A
Article 8	To impose an obligation on Member States to transpose the Directive	The Directive is transposed by the 2003 Regulations.	The Secretary of State
Article 9	To provide for the entry into force of the Directive	No transposition is necessary.	N/A

Provision of Directive	Objective	Implementation	Responsibility
Article 10	To address the Directive to Member States	No transposition is necessary.	N/A
Annex I	To lay down sales names, definitions and characteristics of cocoa and chocolate products	Regulation 2(1) of the 2003 Regulations (definitions of "designated product" and "reserved description") as read with Schedule 1 and regulation 4	The Secretary of State
Annex I.A.4(d)	To allow Member States a derogation relating to "milk chocolate"	Schedule 1, item 5 and regulation 6(1)(c)(ii)	
Annex II	To specify vegetable fats that may be added to certain chocolate products	Regulation 3 and Schedule 2	The Secretary of State