DRAFT STATUTORY INSTRUMENTS

2019 No.

The Nutrition (Amendment etc.) (EU Exit) Regulations 2019

PART 4

AMENDMENT OF EU REGULATIONS

Amendment of Regulation (EC) No 1925/2006

18.—(1) Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to food is amended as follows.

(2) In Article 1 (subject matter and scope)—

(a) omit paragraph 1;

(b) in paragraph 3, for "Community legislation" substitute "other relevant enactments".

(3) In Article 2 (definitions)—

(a) for point (1), substitute—

"(1) 'expert committee' means a committee with appropriate expertise in the matter to be considered, approved by an appropriate authority to give advice for the purposes of this Regulation";

(b) after point (2), insert—

"(3) 'appropriate authority' means:

(a) for regulations applying in relation to England and for the establishment and maintenance of a register in relation to England, the Secretary of State;

(b) for regulations applying in relation to Scotland and for the establishment and maintenance of a register in relation to Scotland, the Scottish Ministers;

(c) for regulations applying in relation to Wales and for the establishment and maintenance of a register in relation to Wales, the Welsh Ministers;

(d) for regulations applying in relation to Northern Ireland and for the establishment and maintenance of a register in relation to Northern Ireland, the Department of Health;

(4) But the appropriate authority is the Secretary of State if consent is given by:

(a) for regulations applying in relation to Scotland and for the establishment and maintenance of a register in relation to Scotland, the Scottish Ministers;

(b) for regulations applying in relation to Wales and for the establishment and maintenance of a register in relation to Wales, the Welsh Ministers;

(c) for regulations applying in relation to Northern Ireland and for the establishment and maintenance of a register in relation to Northern Ireland, the Department of Health;

(5) 'relevant authorities' means the Secretary of State, the Scottish Ministers, the Welsh Ministers and in relation to Northern Ireland, the Department of Health.".

(4) In Article 3 (requirements for the addition of vitamins and minerals), in paragraph 3—

(a) for the first sub-paragraph substitute—

"The appropriate authority may by regulations, after taking into account the opinion of an expert committee, specify modifications to the lists referred to in paragraph 1 of this Article.";

(b) omit the second sub-paragraph;

(c) in the third sub-paragraph for "these modifications, the Commission" substitute "regulations under this paragraph, the appropriate authority".

(5) In Article 4 (restrictions on the addition of vitamins and minerals)—

(a) for point (b)(i) substitute—

"(i) referred to in paragraph B3 of Annex VIII to Regulation (EU) No 1308/2013; and";

(b) in point (b)(ii), after "Regulation;" omit "and";

(c) omit point (b)(iii);

(d) for the final sub-paragraph, substitute—

"The appropriate authority may by regulations determine the additional foods or categories of foods to which particular vitamins and minerals may not be added, in the light of scientific evidence and taking into account their nutritional value.".

(6) In Article 5 (purity criteria)—

(a) in paragraph 1—

(i) for "Measures determining" substitute "The appropriate authority may by regulations determine";

(ii) omit the words from "and designed" to "Article 14(3)";

(b) in paragraph 2, for "Community legislation" substitute "other relevant enactments";

(c) in paragraph 3—

(i) for "Community legislation" substitute "other relevant enactments";

(ii) for "such specifications are adopted" substitute "the appropriate authority makes regulations under paragraph 1";

(iii) omit the words from "national" to the end of that paragraph.

(7) In Article 6 (conditions for the addition of vitamins and minerals)—

(a) in paragraph 1, for the words from "and designed" to "2009" substitute "may be adopted by regulations made by the appropriate authority";

(b) in paragraph 2—

(i) for "Any" substitute "The appropriate authority may by regulations specify";

(ii) omit the words from "and designed" to the end of that paragraph;

(c) in paragraph 6—

(i) for "Annex to Directive 90/496/EEC" substitute "Annex XIII to Regulation (EU) No 1169/2011";

(ii) for the words from "and designed" to the end of the paragraph substitute "may be adopted by regulations made by the appropriate authority.".

(8) In Article 7 (labelling, presentation and advertising)—

(a) in paragraph 1, for the words from "and designed" to the end of the paragraph substitute "may be adopted by regulations made by the appropriate authority.";

(b) in paragraph 6, for "accordance with the procedure referred to in Article 14(2)" substitute "regulations made by the appropriate authority".

(9) In Article 8 (restricted or prohibited substances)—

(a) in the heading, omit "Community";

(b) in paragraph 2—

(i) for the words from the beginning to "Article 14(3)" substitute "Following an assessment of available evidence by an expert committee, the appropriate authority may make regulations";

(ii) omit the words from "On imperative grounds" to the end of that paragraph;

(c) in paragraph 3, for "Community provisions" substitute "Enactments";

(d) for paragraph 4, substitute—

"**4.** Food business operators, or any other interested parties, may at any time submit to the appropriate authority a file containing the scientific data demonstrating the safety of a substance listed in Annex III, Part C, under the conditions of its use in a food or in a category of foods and explaining the purpose of that use. The appropriate authority shall submit the file to an expert committee for evaluation and shall inform the other relevant authorities of the submission and shall make the file available to them.";

(e) for paragraph 5, substitute—

"**5.** Within four years from the date a substance has been listed in Annex III, Part C, the appropriate authority must consider, in consultation with the other relevant authorities and taking into account the opinion of the expert committee on any files submitted for evaluation as mentioned in paragraph 4 of this Article, whether to make regulations to generally allow the use of a substance listed in Annex III, Part C, or to list it in Annex III, Part A or B, as appropriate.";

(f) for paragraph 6, substitute—

"**6.** The appropriate authority may by regulations amend Commission Implementing Regulation (EU) No 307/2012 in order to modify the implementing rules for the application of this Article.".

(10) In Article 9—

(a) in the heading, omit "Community";

(b) in paragraph 1, for the words from the beginning to "Community" substitute "The appropriate authority must establish and maintain a";

(c) for point 2(d) substitute—

"(d) information regarding enactments applicable in any part of the United Kingdom on:

(i) the mandatory addition of vitamins and minerals to specified foods or categories of foods; or

(ii) the prohibition or restriction on the use of certain other substances in the manufacture of specified foods;";

(d) omit point 2(f).

(11) After Article 9 insert—

"Article 9A

Regulations: general

1. Regulations made under this Regulation may:

(a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);

(b) make different provision for different purposes.

Article 9B

Regulations: Secretary of State

1. Any power of the Secretary of State to make regulations under this Regulation is exercisable by statutory instrument.

2. A statutory instrument made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

3. The Secretary of State may not make regulations under this Regulation which will apply in Scotland, Wales or Northern Ireland without the consent of:

(a) the Scottish Ministers, in respect of any proposed application in Scotland;

(b) the Welsh Ministers, in respect of any proposed application in Wales; and

(c) the Department of Health, in respect of any proposed application in Northern Ireland.

Article 9C

Regulations: Scotland

1. For regulations made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.

2. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Article 9D

Regulations: Wales

1. Any power of the Welsh Ministers to make regulations under this Regulation is exercisable by statutory instrument.

2. Regulations made by the Welsh Ministers under this Regulation are subject to annulment in pursuance of a resolution of the National Assembly for Wales.

Article 9E

Regulations: Northern Ireland

1. Any power of the Department of Health to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

2. Regulations made by the Department of Health are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.".

(12) Omit Articles 10 to 18.