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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

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

**PART 5**

**AMENDMENT OF EU TERTIARY LEGISLATION**

**Amendment of [Commission Regulation \(EC\) No 953/2009](#)**

**21.**—(1) [Commission Regulation \(EC\) No 953/2009](#) of 13 October 2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses is amended as follows.

(2) For Article 1 (scope) substitute—

“1. This Regulation shall apply to foods for particular nutritional uses, excluding foodstuffs for particular nutritional use:

- (a) fulfilling the particular requirements of infants and young children in good health in the United Kingdom and intended for use by infants while they are being weaned, and by young children as a supplement to their diet and/or for their progressive adaptation to ordinary food;
- (b) by infants during the first months of life and satisfying by themselves the nutritional requirements of such infants until the introduction of appropriate complementary feeding; and
- (c) by infants when appropriate complementary feeding is introduced and constituting the principal liquid element in a progressively diversified diet of such infants

2. In this Regulation:

“infants” means children under the age of 12 months;

“young children” means children aged between one and three years.”.

(3) In Article 2 (eligible substances)—

- (a) in paragraph 1, for “covered by [Directive 2009/39/EC](#)” substitute “(foodstuffs which, owing to their special composition or manufacturing process, are clearly distinguishable from foodstuffs for normal consumption, which are suitable for their claimed nutritional purposes and which are marketed in such a way as to indicate such suitability)”.
- (b) in paragraph 2, for “[Regulation \(EC\) No 258/97](#)” substitute “[Regulation \(EU\) 2015/2283](#)”.

(4) In Article 3 (general requirements) in paragraph 2, for “competent authorities referred to in Article 11 of [Directive 2009/39/EC](#)” substitute “Secretary of State, Welsh Ministers, Food Standards Scotland or the Food Standards Agency”.

(5) In Article 4 (specific requirements for substances listed in the Annex)—

- (a) omit paragraph 1;
- (b) in paragraph 2, for “by Community legislation” substitute “in retained EU law”;

(c) in paragraph 3—

- (i) omit “by Community legislation” substitute “in retained EU law”;
- (ii) omit “National rules setting stricter purity criteria may be maintained”.

(6) Omit Articles 5 and 6.

(7) In the Annex (Substances that may be added for specific nutritional purposes in foods for particular nutritional uses) for the definition of “foods for special medical purposes” substitute “means a category of foods for particular nutritional uses specially processed or formulated and intended for the dietary management of patients and to be used under medical supervision. They are intended for the exclusive or partial feeding of patients with a limited, impaired or disturbed capacity to take, digest, absorb, metabolise or excrete ordinary foodstuffs or certain nutrients contained therein or metabolites, or with other medically-determined nutrient requirements, whose dietary management cannot be achieved only by modification of the normal diet, by other foods for particular nutritional uses, or by a combination of the two”.