

**EXPLANATORY MEMORANDUM TO**  
**THE CASEINS AND CASEINATES (ENGLAND) REGULATIONS 2017**  
**2017 No. 848**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The Caseins and Caseinates (England) Regulations 2017 (these Regulations) transpose Directive (EU) 2015/2203 ('the new Directive') on Caseins and Caseinates intended for human consumption. Casein is the principal protein constituent of milk, and casein products are most commonly used in protein supplements, but can also be used in, for example, cheese and infant food. These Regulations set out technical standards for caseins and caseinates to be used in such food products, and makes provisions about labelling.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.
- 4.2 Taking account of the Lisbon Treaty and the Treaty on the Functioning of the European Union regarding the delegation of power by the European Parliament and the Council to the Commission, the Directive gives the Commission the power to make delegated acts in respect of the technical elements in the Directive's Annexes. For example, updates to reflect developments in relevant international standards or technical progress. This is in line with the usual approach on changes to technical details.
- 4.3 In transposing the new Directive, these regulations repeal and replace the existing Caseins regulations: The Casein and Caseinates Regulations 1985 (S.I. No 2026); and The Casein and Caseinates (Amendment) Regulations 1989 (S.I.No.2321).

4.4 Implementing Regulations have already been made in respect of Scotland, Wales and Northern Ireland. These are set out in the Explanatory Note to the instrument.

## **5. Extent and Territorial Application**

5.1 This instrument extends to England and Wales.

5.2 This instrument applies to England only (Welsh Ministers have already made equivalent regulations for Wales).

## **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**

### *What is being done and why*

7.1 These Regulations transpose EU Directive 2015/2203. The new Directive provides for the approximation of the laws of the Member States relating to certain lactoproteins (caseins and caseinates) intended for human consumption. It repeals and replaces Council Directive 83/417/EEC. The new Directive was made for three reasons.

7.2 The first reason was to take account of other legislation adopted in the meantime relating to food law. From a policy perspective, this means the new regulation ensures consistency with other food standards regulations and enables understanding and compliance.

7.3 The second reason was to align the compositional requirements of the products concerned to the relevant international standard issued by the Codex Alimentarius, the international body which sets standards for food and agricultural products. The main technical change is an increase in the permitted moisture content of Acid Caseins; this is a relaxation of the previous EU standard, bringing it into line with the relevant Codex standard. From a policy perspective, this means that, under the new regulations, were any caseins manufacturing industry to emerge in England it would be playing by the same rules as international competitors.

7.4 The third reason was to update the approach used in Directive 83/417/EEC which conferred powers on the European Commission in order to implement some of its provisions.

## **8. Consultation outcome**

8.1 A seven week consultation by letter was held from 20 April 2017 to 1 June 2017. Responses confirmed that there is no domestic caseins manufacturing industry in England, and that, even if such an industry did exist, the amendments are technical and would not introduce new burdens on any business or the public sector or otherwise give rise to concerns.

## **9. Guidance**

9.1 Given there is no domestic Caseins manufacturing industry we have not issued guidance on these regulations.

## **10. Impact**

- 10.1 An Impact Assessment has not been prepared for this instrument. This is because no significant impact on business, charities or voluntary bodies is foreseen.
- 10.2 There is no impact on the public sector.

## **11. Regulating small business**

- 11.1 Whilst there are no small businesses in England manufacturing caseins, it is possible that small businesses are involved in the downstream supply chain (though none have been identified). Our consultation responses suggest that there will be no new burdens on any businesses.

## **12. Monitoring & review**

- 12.1 The Secretary of State will from time to time carry out a review of the regulatory provision contained in these regulations, and publish a report. The report will be published before 26 September 2022. Subsequent reports will be published at intervals not exceeding five years.

## **13. Contact**

- 13.1 Robert Jackson at the Department for the Environment Food and Rural Affairs (Telephone: 020 3016 3966 or email: [robert.jackson2@defra.gsi.gov.uk](mailto:robert.jackson2@defra.gsi.gov.uk)) can answer any queries regarding the instrument.