EXPLANATORY MEMORANDUM TO

THE ADDITION OF VITAMINS, MINERALS AND OTHER SUBSTANCES (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010

2010 No. 292

1. Introduction

1.1 This explanatory memorandum has been prepared by the Food Standards Agency in Northern Ireland to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under Articles 15(1)(a), (e) and (f) 16(2), 25(1)(a) and (3) and 47(2) of the Food Safety (Northern Ireland) Order 1991, as read with Paragraph 1A of Schedule 2 to the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose of the Rule

2.1 This Rule amends national Regulations which provide for the execution and enforcement of a European Union (EU) Regulation on the addition of vitamins, minerals and other substances to foods, to make an ambulatory reference to the Annexes to the EU Regulation which list the vitamins, minerals and their sources permitted for addition to foods.

3. Legislative Background

3.1 The addition of vitamins and minerals and other substances to foods (also known as 'fortification') is regulated in the EU under Regulation (EC) No. 1925/2006 of 20 December 2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods ('Regulation 1925/2006'). The Regulation is directly applicable in EU Member States.

3.2 The Addition of Vitamins, Minerals and Other Substances Regulations (Northern Ireland) 2007 (S.R. 2007 No 301) as amended ('the national Regulations') provide for the execution and enforcement of Regulation 1925/2006 in Northern Ireland.

3.3 The Rule amends the national Regulations to provide for the execution and enforcement, in Northern Ireland, of future amendments to the Annexes to Regulation 1925/2006.

4. Parity or Replicatory Measure

4.1 This Rule applies to Northern Ireland only. Parallel legislation is being made in England, Scotland and Wales.

5. European Convention on Human Rights

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

6. Policy background

- What is being done and why

6.1 Commission Regulation (EC) No. 1170/2009, which came into force on 21 December 2009, added 1 mineral and 10 vitamin and mineral sources to the Annexes to Regulation 1925/2006. The Food Supplements and Addition of Vitamins, Minerals and Other Substance (Amendment) Regulations (Northern Ireland) 2009 (S.R 2009 No 407) amended the national Regulations for the first time to provide for the execution and enforcement of Regulation 1925/2006 in its amended form.

6.2 In the interests of simplification and better regulation, it is desirable to avoid the need to make national legislation each time amendments are made to the Annexes to Regulation 1925/2006, simply to provide for the execution and enforcement of the Regulation in its amended form.

6.3 The rule therefore amends the national Regulations to make an ambulatory reference to the Annexes to Regulation 1925/2006, in exercise of the power to make ambulatory references provided by paragraph 1A of Schedule 2 to the European Communities Act 1972. This provides for the execution and enforcement of any future amendments to the Annexes to Regulation 1925/2006, without the need for further national legislation.

- ***Consolidation***

6.4 The rule amends the national Regulations for the second time. The national Regulations are not being consolidated on this occasion.

7. Consultation

7.1 A public consultation on a draft of the Rule was carried out by the Food Standards Agency in Northern Ireland for a period of 12 weeks from 31 March to 23 June 2010. One response was received to the consultation in Northern Ireland, which was supportive of the proposed regulations. Separate, parallel consultations were carried out by England, Scotland and Wales. A summary of consultation responses will be published on the Food Standards Agency's website.

8. Guidance

8.1 The Food Standards Agency's guidance on the addition of vitamins and minerals and of certain other substances to food provides advice on compliance and, whilst aimed primarily at industry, is also of use to enforcement authorities.

8.2 As the amendment the rule makes is technical in nature and relates solely to ambulatory references directed at the Annexes to Regulation 1925/2006, the guidance will not be revised.

8.3 The Food Standards Agency in Northern Ireland will be writing to enforcement authorities, their representative bodies and other stakeholders to inform them of the legislative changes.

9. Equality Impact

9.1 These regulations will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the section 75 groups.

10. Impact

10.1 The rule makes a technical amendment to the national Regulations which will not place any additional burdens on stakeholders, other than the one-off impact associated with being aware of, and becoming familiar with, the amendment and its effect on the national Regulations. An Impact Assessment has therefore not been prepared.

11. Regulating small business

11.1 The rule applies to small business. Small businesses will not be exempted because the rule does not place any new burdens on them.

12. Monitoring and review

12.1 Article 14 of Regulation 1925/2006 requires the European Commission to submit to the European Parliament a report on the application of the Regulation by 1 July 2013. The costs and benefits of the rule will be monitored and reviewed in the course of the UK's participation in this process.

13. Contact

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