EXPLANATORY MEMORANDUM TO

THE FOOD HYGIENE RATING (FEES AND FIXED PENALTY AMOUNT) ORDER (NORTHERN IRELAND) 2016

2016 No. 000

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health to accompany the Order (details above) which is laid before the Northern Ireland Assembly.

1.2 The Order is made under sections 4(7)(c) and paragraph 4 of the Schedule to the Food Hygiene Rating Act (Northern Ireland) 2016 (the Act).

2. Purpose of the Rule

2.1 The proposed Food Hygiene Rating (Fee and Fixed Penalty Amount) Order (Northern Ireland) 2016 will specify the fee associated with the request for re-rating inspections. The purpose of charging a fee for re-rating inspections is to ensure that there is no adverse impact on the ability of district councils to deliver their statutory responsibilities for food safety. In setting the fee we have taken into consideration:

- The time required for district council officers to undertake each stage of the re-rating process including administrative, travel and inspection times
- The current costs associated with staff in district councils engaged in the re-rating process

2.2 The fee of £150 reflects the costs incurred by district councils in conducting a re-rating inspection.

2.3 The Order will also set the fixed penalty amount payable by food businesses where a fixed penalty notice is served under section 11 of the Food Hygiene Rating Act (Northern Ireland) 2016 at £200. This amount is in line with fixed penalty notices currently being issued by local authorities under the statutory Food Hygiene Rating Scheme in Wales.

3. Matters of special interest to the Health Committee

3.1 None.

4. Parity or Replicatory Measure

4.1 This Order applies to Northern Ireland only.

5. European Convention on Human Rights

5.1 As this Order is subject to draft affirmative resolution procedure and does not amend primary legislation, no statement is required.

6. Policy background

6.1 The Food Hygiene Rating Bill received Royal assent on the 29 January 2016 and became an Act referred to as the Food Hygiene Rating Act 2016. The Act confers powers on the Department to make orders and rules in relation to the coming into operation of the Act and also to set out certain arrangements for the operation of the scheme.

6.2 The Act establishes a statutory food hygiene rating scheme in Northern Ireland, which when implemented will require district councils, following an inspection, to produce a food hygiene rating for businesses within scope of the scheme using criteria published by the FSA.

6.3 In order to allow effective implementation of the Act, secondary legislation in the form of regulations and orders were produced.

7. Consultation outcome

7.1 The FSA in Northern Ireland carried out a 14 week formal public consultation in Northern Ireland. The time period for consultation was extended from 12 weeks to 14 weeks allowing additional time to take account of the dissolution of the Assembly during election period. 12 responses were received in relation to this consultation with respondents being broadly supportive of the proposals.

The FSA believes that the full 14 week public consultation exercise, which included an industry stakeholder meeting provided all consultees with proper opportunity to evaluate the proposals.

8. Equality Impact

8.1 This Order 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.

9. Contact

Mark O'Neill at the Food Standards Agency NI, Tel: 028 9041 7729,
Email: mark.o'neill@foodstandards.gsi.gov.uk