EXPLANATORY MEMORANDUM TO

THE FOOD FOR PARTICULAR NUTRITIONAL USES (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2010

2010 No. 33

1. Introduction

1.1 This explanatory memorandum has been prepared by the Food Standards Agency 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 16(1), 25(1)(a) 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.

2. Purpose of the Rule

2.1 The Food for Particular Nutritional Uses (Miscellaneous Amendments) Regulations (Northern Ireland) 2010 ('the Regulations') introduce provisions, in Northern Ireland, so that the references to Directive 89/398/EEC in existing legislation are replaced by references to Directive 2009/39/EC on foodstuffs intended for particular nutritional uses. The main purpose of the Regulations is to align domestic law with EC law.

3. Legislative Background

3.1 Directive 2009/39/EC is a recast of Directive 89/398/EEC incorporating its subsequent amendments. There is no significant difference between the text of these Directives other than those which introduce a regulatory procedure with scrutiny; these new provision do not need to be transposed. This EC measure repeals Directive 89/398/EEC and its amendments.

4. Parity or Replicatory Measure

4.1 This Statutory Rule applies to Northern Ireland only. Parallel legislation is being made in each of the other countries of the United Kingdom.

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

6.1 Council Directive 89/398/EEC on foodstuffs intended for particular nutritional uses (the Parnuts Framework Directive) has been amended by Directives 96/84/EC, 1999/41/EC and Regulation (EC) 1882/2003. In 1987, the European Commission decided that legislative measures should be codified after no more than ten amendments, and preferably at shorter

intervals, to ensure that they are clear and readily understandable; therefore, in 2004 the Commission began the process of codifying Directive 89/398/EEC.

6.2 In 2006, Council Decision 1999/468/EC laying down procedures for the exercise of implementing powers conferred on the Commission was amended by Decision 2006/512/EC which introduced a regulatory procedure with scrutiny for measures of general scope designed to amend non-essential elements of a basic rule adopted in accordance with the procedure referred to in Article 251 of the Treaty. In accordance with a joint statement of the European Parliament, the Council and the Commission (OJ C 255, 21.10.2006, p1), for this new procedure to be applicable to such rules already in operation, they must be amended. In order to incorporate these adjustments, references to Directive 89/398/EEC need to be replaced by references to Directive 2009/39/EC in domestic law. To avoid the need for future statutory rules, an ambulatory clause has been inserted.

7. Consultation

7.1 The Food Standards Agency Northern Ireland conducted a 12-week consultation, which ran from 10 August to 2 November 2009 with parallel consultations undertaken in England, Scotland and Wales. No responses were received in NI.

8. Guidance

8.1 As this is a recast of existing legislation, no guidance has been produced to accompany this legislation.

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 An Impact Assessment has not been prepared to accompany these Regulations as no costs have been identified.

10.2 The Regulations would not impose any significant new burden on Government or enforcement officers. Rural areas and members of the ethnic communities, or of any particular racial group are unaffected by these proposals. Charities and voluntary organisations are unaffected by these proposals.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 It is not thought that the proposed legislation will disproportionately impact small businesses as no costs were identified.

12. Monitoring & review

12.1 The new rules will come into operation on 15 March 2010. The Regulations will be reviewed three years after implementation.

13. Contact

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