EXPLANATORY MEMORANDUM TO

THE FOOD (JELLY MINI-CUPS) (EMERGENCY CONTROL) (ENGLAND) (REVOCATION) REGULATIONS 2011

2011 No. 213

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 These Regulations revoke legislation banning the use of certain additives in a type of jelly confectionery known as jelly mini-cups. The revocation takes account of the repeal of EU emergency legislation which is no longer required as the ban has been made permanent elsewhere in EU law.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 These Regulations revoke, in relation to England, the Food (Jelly Mini Cups) (Emergency Control) (England) Regulations 2009 (SI 2009/3230).

5. Territorial Extent and Application

5.1 This Instrument applies to England only. Separate but parallel legislation is being enacted for Scotland, Wales and Northern Ireland.

6. European Convention on Human Rights

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 Commission Decision 2004/375/EC which suspended the placing on the market and import of jelly mini-cups containing 16 specified gel-forming food additives was implemented in England by the Food (Jelly Mini Cups) (Emergency Control) (England) Regulations 2009. In 2006, the ban on these additives in jelly mini-cups was made permanent by way of an amendment to food additives legislation (Directive 95/2/EC) which is enforced in England by the Food Additives (England) Regulations 2009. To avoid repetition of legislation, Commission Decision 2004/374/EC has now been repealed by Commission Directive

2010/69/EU and it is necessary to revoke the national implementing legislation.

7.2 Jelly mini-cup sweets which contain additives derived from seaweed and/or certain gums have been banned in the EU since 2004 because of concerns that they pose a choking hazard. This type of jelly confectionery is of a firm consistency, contained in semi-rigid mini-cups or mini-capsules intended to be ingested in a single bite by exerting pressure on the mini-cup or mini-capsule to project the confectionary into the mouth.

8. Consultation outcome

8.1 A full 12 week consultation was not considered necessary as the ban on additives in jelly mini-cups will continue unchanged. Interested parties will however be informed of the change to the legislation which enforces the ban in England.

9. Guidance

9.1 It is not intended to issue guidance as the current controls, with which industry and the enforcement authorities are familiar, remain unchanged.

10. Impact

10.1 There will be no impact on business, charities or voluntary bodies as the current controls remain unchanged.

10.2 There is no impact on the public sector as there are no identifiable costs.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The ban on certain additives in jelly mini-cups applies to all businesses, small and large and will continue to do so under these Regulations.

12. Monitoring & review

12.1 Compliance with these Regulations contributes substantially to consumer safety. The ban on additives in jelly mini cups was proposed by the European Commission in line with advice from the European Food Safety Authority (EFSA). Any review of the legislation would be undertaken by the European Commission in liaison with EFSA.

13. Contact

13.1 Glynis Griffiths at the Food Standards Agency, Tel: 020 7276 8556, Email: glynis.griffiths@foodstandards.gsi.gov.uk can answer any queries regarding the instrument.