EXPLANATORY MEMORANDUM TO

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

2011 No. 29

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 section 2(2) of the European Communities Act 1972.

2. Purpose of the Rule

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. Legislative Context

3.1 These Regulations revoke in relation to Northern Ireland the Food (Jelly Mini Cups) (Emergency Control) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 417).

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 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 Northern Ireland by the Food (Jelly Mini Cups) (Emergency Control) Regulations (Northern Ireland) 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 Northern Ireland by the Food Additives Regulations (Northern Ireland) 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 To avoid repetition of legislation, Commission Decision 2004/374/EC has now been repealed by Commission Directive 2010/69/EU and it is necessary to revoke the implementing legislation.

6.2 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.

7. Consultation

7.1 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 Northern Ireland.

8. Guidance

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

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 There will be no impact on business, charities or voluntary bodies as there are no identifiable costs.

10.2 There are no identifiable costs to the public sector.

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

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 the new Regulations.

12. Monitoring and review

12.1 Compliance with the 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

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