EXPLANATORY MEMORANDUM TO

THE FOOD SAFETY AND HYGIENE (ENGLAND) (AMENDMENT) REGULATIONS 2014

2014 No. 2885

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

2. Purpose of the instrument

2.1 This Instrument will amend the Food Safety and Hygiene (England) Regulations 2013 (SI 2013 No. 2996) so as to maintain the labelling requirements for raw drinking milk (RDM). The labelling requirements ensure that those who choose to consume RDM are made aware of the risks associated with their choices.

2.2 The change to the Food Safety and Hygiene (England) 2013 Regulations is purely mechanical and the provisions relating to the labelling of RDM remain unchanged.

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

3.1 None.

4. Legislative Context

4.1 The current labelling requirements for RDM, contained in the Food Labelling Regulations 1996 (SI 1996 No. 1499) (the FLR), will be revoked when the enforcement measure for Commission Regulation (EU) No. 1169/2011 on food information for consumers comes into force. However, these labelling requirements need to be maintained as they are an important food safety measure. This instrument amends in relation to England the Food Safety and Hygiene (England) Regulations 2013.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

5.2 Separate but parallel legislation is being made in 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

7.1 At present the labelling requirements for RDM are contained in the FLR; regulation 31 of those Regulations requires a health warning for RDM other than Buffalo milk. The FLRs are due to be revoked in their entirety on 13 December 2014 when the new Food Information Regulations 2014 (SI 2014

No. 1855) (the FIR) come into force. The FIR provide for the enforcement of the new Commission Regulation (EU) No. 1169/2011 on food information for consumers (the EU FIC). The current labelling requirements for RDM were not transferred into the FIR, because a general review of the controls of RDM was anticipated. However, that review is not yet concluded and some means of maintaining the current labelling requirements for RDM is needed until the review is concluded and any changes to controls over RDM are agreed.

7.2 Several options were considered and it was felt that transferring the current RDM labelling requirements into Schedule 6 of the 2013 Regulations was appropriate and the least burdensome way to maintain this important health protection measure. Accordingly this instrument has been prepared to maintain the RDM labelling provisions. There is no change to substantive policy provisions.

8. Consultation outcome

8.1 A formal consultation was considered unnecessary as there is no substantive change to the current provisions. However, the FSA informed businesses and enforcement authorities on 13th October via an interested parties letter, of the proposed change to the Food Hygiene Regulations to maintain the labelling requirements for RDM.

9. Guidance

9.1 No specific guidance has been prepared to accompany this SI.

10. Impact

10.1 The FSA does not envisage that this Instrument will have any impact on food businesses or enforcement authorities, as the changes introduced by this instrument simply transfer the RDM labelling provisions from one set of Regulations into another. The changes are purely mechanical, and familiarisation costs are expected to be negligible.

10.2 There is no impact on the public sector as there is no change to current provisions so there are no identifiable costs.

10.3 The FSA's Better Regulation team have advised that an Impact Assessment is not required as there are no changes to the current provision. As such, an Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The instrument will apply to all businesses, small and large.

12. Monitoring & review

12.1 The current review of controls over the sale of RDM will not be concluded until well into 2015, because the review is to draw, in part, on the findings of a European Food Safety Authority's opinion, which is not expected until December 2014, and also the need to generate and collate additional evidence requested by the FSA Board.

Statutory Review

12.2 The FSA is required to carry out a review of the provisions made by this Instrument at least every five years. The review period begins when this Instrument comes into force.

12.3 In carrying out the review, the FSA is required to produce a report that sets out the objectives of this Instrument, the extent to which they have been achieved and whether they could be achieved by means that impose less regulation.

13. Contact

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