EXPLANATORY MEMORANDUM TO

Food Safety, Food Hygiene and Official Controls (Sprouting Seeds and Miscellaneous Amendments) Regulations (Northern Ireland) 2013

2013 No. 291

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health Social Services and Pubic Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule (SR) is made under the powers conferred on it by section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

1.3 The rule is due to come into operation on 31st December 2013

2. Purpose

2.1 The proposed Regulations provide for:

- the enforcement of recent EU provisions regulating the production, import and supply of seeds intended for sprouting;
- transitional measures in relation to the accreditation of official laboratories whose sole activity is the detection of Trichinella in meat;
- a minor amendment to the enforcement authority to the General Food Regulations (Northern Ireland) 2004; and
- a consequential amendment to the Food Safety (Northern Ireland) Order 1991.

3. Legislative Background

3.1 Following outbreaks in 2011 of food poisoning in Germany and France caused by E.coli O104:H4, sprouts and seeds intended for sprouting were identified as the most likely source. After detailed negotiations, the European Commission has introduced a package of Regulations for the hygienic production of sprouts and seeds intended for sprouting which are intended to increase public health protection. The SR provides the necessary provisions to enforce the four EU Regulations introducing tighter controls on the seeds and seeds intended for sprouting sector.

3.2 The SR is required to provide for enforcement in Northern Ireland of provisions of;

- Commission Regulation (EU) 1079/2013 laying down transitional measures for the application of Regulations (EC) 853/2004 and (EC) 854/2004; and

- Commission Implementing Regulation (EU) 702/2013 on transitional measures for the application of Regulation 882/2004 as regards accreditation of official laboratories carrying out official testing.

These transitional measures include the extension to the derogation for the direct supply, by the producer, of small quantities of meat from poultry and lagomorphs (rabbits) slaughtered on the farm to the final consumer or to local retail establishments directly supplying to the final consumer.

3.3 The General Food Regulations (Northern Ireland) 2004 came into operation on 1 January 2005 and provides enforcement provisions for Regulation (EC) 178/2002, which sets out the general principles of EU food law. The SR intends to make an amendment to the enforcement authority in Regulation 6(2) of the General Food Regulations to rectify an omission and enable Food Standards Agency to enforce the requirements for Article 18 of Regulation (EC) 178/2002 for the traceability of food in registered premises in NI.

3.4 The Food Safety (Northern Ireland) Order 1991 came into operation on 20 March 1991 and provides provisions for food safety and consumer protection in relation to food throughout Northern Ireland.
The main aims of the Order are to:

- ensure that all food meets consumers' expectations in terms of nature, substance and quality and is not misleadingly presented;
- provide legal powers and specify offences in relation to public health and consumers interest;
- enable Northern Ireland to fulfil its part of the United Kingdom's responsibilities in the European Union.

This SR amends the Food Safety (Northern Ireland) Order 1991 to reflect the renumbering of a paragraph in the General Food Regulations (Northern Ireland) 2004 when amended by SR 2005 No. 574.

4. Matters of special interest to the Health Committee

4.1 None.

5. Consultation

5.1 The draft SR and Impact Assessment were issued for a six-week consultation which ended on 14 October 2013. No responses were received in Northern Ireland.

5.2 Comments were received in Great Britain. The Regulations introduce enforcement powers that are required for the introduction of European legislation on sprouts and seeds intended for sprouting. This will require, for the first time, businesses producing such products to be approved to do so by the competent authority. These measures also introduce a microbiological testing regime and the need for an import certificate for seeds arriving from third countries (i.e. non-EU Member States). The majority of the responses raised issues relating to these points. The FSA have addressed these points by

revising the relevant IA to ensure costs and benefits reflect the most up-to-date data provided by stakeholders.

6. Position in Great Britain

6.1 England, Scotland and Wales are expected to introduce equivalent Statutory Instruments within similar timescales.

7. Equality Impact

7.1 There is no impact on equality of opportunity in relation to enforcement of this Statutory Rule.

8. Regulatory Impact

8.1 The Impact Assessment for the introduction of European legislation on sprouts and seeds intended for sprouting, was prepared by FSA colleagues in London and is believed to be representative of the position in Northern Ireland. The IA is attached to this memorandum.

8.2 The effect of Commission Implementing Regulation (EU) 702/2013 and Commission Regulation (EU) 1079/2013 is to continue the current situation, and therefore, an IA was not required.

8.3 An IA was also not required for the other amendments to the General Food Regulations and the Food Safety (Northern Ireland) Order 1991 because they were required to rectify an omission of an enforcement authority for Article 18 of Regulation (EC) 178/2002 for the traceability of food and to rectify an erroneous reference to the original regulations, respectively.

9. Contact

Joy Cresswell at the Food Standards Agency NI, Tel: 028 9041 7759,
Email: Joy.Cresswell@foodstandards.gsi.gov.uk or

Anthony Higgins at the Food Standards Agency NI, Tel: 028 9041 7761
Email: Anthony.Higgins@foodstandards.gsi.gov.uk