EXPLANATORY MEMORANDUM TO

THE SPREADABLE FATS (MARKETING STANDARDS) (ENGLAND) (AMENDMENT) REGULATIONS 2007

2007 No. 1615

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

2. Description

2.1 This Statutory Instrument amends the Spreadable Fats (Marketing Standards) (England) Regulations 1999 (S.I. 1999/2457).

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

3.1 None

4. Legislative Background

4.1 The Regulations provide for the execution and enforcement of Commission Regulation (EC) No. 445/2007 laying down certain detailed rules for the application of Council Regulation (EC) No. 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No. 1898/87 on the protection of designations used in the marketing of milk and milk products.

5. Extent

5.1 This instrument applies to England only. Parallel legislation is being made in Scotland, Wales and Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7 Policy background

7.1 The European Commission has recently consolidated Regulation (EC) No. 577/97 and its amendments, which sets criteria for labelling fat content on spreadable fats and specifies where the description ‘butter’ may be used on composite products. The consolidated text, Commission Regulation (EC) No. 445/2007, hereafter known as the consolidated Regulation, adds no new provisions, but came into force on the 14 May. In England, the Spreadable Fats (Marketing Standards) (England) Regulations 1999 (S.I. 1999/2457) needs to be changed to refer to the consolidated Regulation rather than

Regulation (EC) No. 577/97 and its amendments, otherwise enforcement action cannot be taken under S.I. 1999/2457.

7.2 UK industry will be legally obliged to comply with the consolidated Regulation as it is directly applicable. However, national legislation needs to be amended as soon as possible so that Local Authorities can enforce the relevant provisions of the consolidated Regulation.

7.3 The Food Standards Agency has consulted with industry, representatives of whom have expressed no concerns. Local Authorities have expressed some concern with their inability to enforce against food business operators who are not in compliance with the consolidated Regulation, pending the introduction of amended domestic legislation.

8. Impact

8.1 A Regulatory Impact Assessment has not been carried out as no changes have been made to the legal requirements impinging on the private or voluntary sectors.

8.2 As there will be a period of time where enforcement of the consolidating Regulation will not be possible, the public are not afforded the same protection as they were under Regulation 5 of S.I. 1999/2547.

9. Contact

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