

Explanatory Memorandum to the Casein and Caseinates (Wales) Regulations 2016

This Explanatory Memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Member's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Casein and Caseinates (Wales) Regulations 2016

Rebecca Evans
Minister for Social Services and Public Health
25 November 2016

Explanatory Memorandum for the Casein and Caseinates (Wales) Regulations 2016

1. Description

The Caseins and Caseinates (Wales) Regulations 2016 transpose the requirements of Directive (EU) 2015/2203 on caseins and caseinates intended for human consumption.

2. Matters of Special Interest to the Constitutional Affairs Committee

None.

3. Legislative Background

The powers enabling the Regulations to be made are conferred by sections 6(4), 16(1)(a),(e),(f), 17(1), 26(1), (2)(e) and (3), 31(1) and 48 of the Food Safety Act 1990. The powers given by these sections, which were vested in UK Government Ministers prior to devolution, were transferred to the National Assembly for Wales in 1999 by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) and were subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ("GOWA 2006").

The proposed Regulations would be made by statutory instrument subject to the negative resolution procedure. This means that the instrument is made (signed) and laid before the Assembly but should not be brought into force until at least 21 (calendar) days from the date of laying. However, in addition there is a 40 (calendar) day period which also commences from the date of laying whereby a Member may table a motion seeking the annulment of the instrument. Unless an annulment motion is tabled, the Regulations will not be debated in Plenary.

4. Purpose and Intended Effect of the Legislation

The Casein and Caseinates Regulations 1985 (S.I. 1985/2026) and the Casein and Caseinates (Amendment) Regulations 1989 (S.I. 1989/2321) implement the requirements of Council Directive 83/417/EEC on the approximation of the laws of the Member States relating to certain lactoproteins (caseins and caseinates) intended for human consumption. That Directive laid down specifications for use of reserved descriptions, manufacturing specifications and labelling of products so as to ensure their free movement within the European Union.

Directive 83/417/EEC has now been revoked and replaced with Directive (EU) 2015/2203. The new Directive was needed to take into account

developments in food law, remove unnecessary provisions and update various terms and references to take into account those used in other EU legislation. It also aligns composition requirements with the international standard set by the Codex Alimentarius for the sake of consistency and to avoid trade distortions.

To fulfil the Welsh Ministers' obligations under EU law, the Casein and Caseinates (Wales) Regulations 2016 transpose the new Casein and Caseinates Directive into Welsh law and provide penalties in the event of non-compliance with the new European requirements. The Regulations also revoke the Casein and Caseinates Regulations 1985 and the Casein and Caseinates (Amendment) Regulations 1989 in relation to Wales.

5. Consultation

The Food Standards Agency ran a six-week consultation from the 10th October to 10 November 2016. There were no responses to the consultation in Wales.

6. Regulatory Impact Assessment

A Regulatory Impact Assessment has not been prepared to accompany these Regulations as there are no changes to the current controls and therefore no identified costs to consumers, businesses or enforcement authorities associated with implementation of these new Regulations.