

## **Explanatory Memorandum to the Addition of Vitamins, Minerals and Other Substances (Wales) (Amendment) Regulations 2010**

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 24.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Addition of Vitamins, Minerals and Other Substances (Wales) (Amendment) Regulations 2010.

*Gwenda Thomas*

**Deputy Minister for Health and Social Services**

**14 August 2010**

## **Description**

1. The instrument amends The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007 (SI 2007/1984)(W. 1685) ('the 2007 Regulations') which provide for the execution and enforcement of a European Union (EU) Regulation on the addition of vitamins, minerals and other substances to foods by making an ambulatory reference to the Annexes to that EU Regulation which list the vitamins, minerals and their sources permitted for addition to foods.
2. The ambulatory reference will allow the 2007 Regulations (once amended) to be read as if reference therein to the Annexes to the EU Regulation are references to the Annexes as amended from time to time.

## **Matters of special interest to the Constitutional Affairs Committee**

3. None.

## **Legislative Background**

4. The addition of vitamins and minerals and other substances to foods (also known as 'fortification') is regulated in the EU under Regulation (EC) No. 1925/2006 of 20 December 2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods ('EU Regulation'). The EU Regulation is directly applicable in EU Member States.
5. The 2007 Regulations provide for the execution and enforcement of the EU Regulation in Wales.
6. The instrument amends the 2007 Regulations to provide for the execution and enforcement, in Wales, of the EU Regulation including any future amendments to the Annexes to that Regulation .
7. Welsh Ministers have the required powers to make the Regulations under sections 16(1)(a),(e) and (f), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990 as read with paragraph 1A of Schedule 2 to the European Communities Act 1972
8. The instrument is subject to the negative resolution procedure. This means that it is made (i.e. 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 during which a Member may table a motion seeking the annulment of the instrument. Unless an

annulment motion is tabled, there shall be no debate of the instrument in Plenary.

### **Purpose and Intended effect of the legislation**

9. Commission Regulation (EC) No. 1170/2009, which came into force on 21 December 2009, added 1 mineral and 10 vitamin and mineral sources to the Annexes to the EU Regulation. The Food Supplements (Wales) and Addition of Vitamins, Minerals and Other Substances (Wales) (Amendment) Regulations 2009 (SI 2009/3252)(W.282) amended the 2007 Regulations for the first time to provide for the execution and enforcement of Regulation 1925/2006 in its amended form.
10. In the interests of simplification and better regulation, it is desirable to avoid the need to make national legislation each time amendments are made to the Annexes to EU Regulation, simply to provide for the execution and enforcement of the EU Regulation as amended from time to time.
11. The instrument therefore amends the 2007 Regulations to make an ambulatory reference to the Annexes to the EU Regulation. This means that any future amendments to the Annexes to the EU Regulation will be incorporated by reference into the 2007 Regulations, without the need for further national legislation.

### **Consultation**

12. The Food Standards Agency Wales carried out a 12 week public consultation on the draft Regulations which ran from 31 March to 23 June 2010. Parallel consultations were conducted in England, Scotland and Northern Ireland.
13. Stakeholders including consumer and health professional groups, manufacturers and food industry bodies, enforcement bodies, individuals and government departments were consulted. The consultation package was also posted on the Agency's website.
14. A total of 6 responses to the consultation were received UK wide. No responses were received in Wales. Consultees were generally supportive of the Instrument and no specific additional burdens were identified.
15. A summary of the consultation responses will be published on the Food Standards Agency's website.

### **Regulatory Impact Assessment**

16. The impact on business, charities or voluntary bodies and the public sector is neutral. The instrument makes a technical amendment to the 2007 Regulations which will not place any additional burdens on stakeholders, other than the one-off impact associated with being aware of, and becoming familiar with, the amendment, and its effect on the 2007 Regulations. A Regulatory Impact Assessment has therefore not been prepared.