



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Nutrition (Amendment etc) (EU Exit) Regulations 2019**

DATE **18 January 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Nutrition (Amendment etc) (EU Exit) Regulations 2019 (“the Regulations”) – affirmative

The retained EU law which is being amended

- Regulation (EC) 1924/2006 sets out the legal framework businesses must comply with if they want to make nutrition or health claims to ensure that claims are accurate and consumers are not misled.
- Regulation (EC) 353/2008 which established implementation rules for applications for the authorisation of health claims.
- Regulation (EC) 2013/63 adopted guidelines for the implementation of specific conditions for health claims.
- Regulation (EC) 907/2013 set rules for applications concerning the use of generic descriptors.
- Regulation (EC) 984/2009 refusing to authorise certain health claims made on food, other than those referring to the reduction of disease and to children’s development and health.
- Regulation (EC) 1024/2009 on the authorisation and refusal of authorisation of certain health claims made on food and referring to the reduction of disease risk and to children’s development and health.
- Regulation (EC) 1025/2009 refusing to authorise certain health claims made on food, other than those referring to the reduction of disease risk and to children’s development and health.

- Regulation (EC) No 1167/2009 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health.
- Regulation (EC) No 1168/2009 refusing to authorise a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health.
- Regulation (EU) No 375/2010 refusing to authorise a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health.
- Regulation (EU) No 382/2010 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health.
- Regulation (EC) 1925/2006 which stipulates which vitamins, minerals, and certain other substances may be added to foods; sets out how new substances may be assessed and approved; and outlines compositional and labelling requirements for foods that have substances added to them.
- Regulation (EC) 307/2012 establishes implementing rules for the application of power to prohibit, restrict, or place a substance under scrutiny.
- Regulation (EU) No 489/2012 which established implementing rules for the application of Article 16 of Regulation (EC) No 1925/2006 on the addition of vitamins and minerals and of certain other substances to foods is revoked.
- Regulation (EC) 609/2013 sets general compositional and labelling rules for four food categories those being infant and follow-on formula, processed cereal-based food and baby foods, food for special medical purposes (foods necessary for the management of particular medical conditions) and total diet replacement for use in energy restricted diets for weight reduction.
- Regulation (EC) 983/2009 sets out requirements on substances that may be added for specific nutritional purposes in foods for particular nutritional uses.
- Regulation (EC) No 953/2009 sets out requirements on substances that may be added for specific nutritional purposes in foods for particular nutritional uses.
- Delegated Regulation (EU) 2016/128: supplements Regulation (EU) No 609/2013 with regards to the specific compositional and information requirements for food for special medical purposes

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

The Regulations contain provision which enable the Welsh Ministers to exercise functions in relation to Wales without encumbrance. It also contains provision whereby the Welsh Ministers could provide consent to the Secretary of State to exercise functions in relation to Wales on their behalf.

Functions transferred to the Secretary of State with consent would constitute functions of a Minister of the Crown for the purposes Schedule 7B to Government of Wales Act 2006. This

therefore may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas.

The purpose of the amendments

The purpose of the amendments is to correct deficiencies arising from the UK leaving the European Union in the retained direct EU legislation relating to nutrition. The Regulations will make technical amendments to the retained direct EU law without making any material change in the level of protection given to human health or to the high standard of food consumers expect from both domestically produced and imported products.

The Regulations will make technical fixes such as removing references to EU institutions and other Member States and will define 'third countries' as any country outside of the UK.

The main corrections proposed by these Regulations involve the transfer of scientific advisory functions currently undertaken by European Food Safety Authority (EFSA) to existing appropriate UK bodies or to a newly established UK Nutrition and Health Claims Committee (UKNHCC). This new committee will be established under the remit of Public Health England and will be responsible for the scientific substantiation and providing advice to the four UK administrations on any new nutrition and health claims made within the UK post exit.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/statutory-instruments/kv1TC7iv>

Why consent was given

There is no divergence between the Welsh Government and the UK Government (Department of Health and Social Care) on the policy for the corrections. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.