

EXPLANATORY MEMORANDUM TO

THE FOOD IRRADIATION (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010

2010 No. 322

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Food Standards Agency in Northern Ireland to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 15(1) and (3), 16(1), 17(1)(c), 18(1)(b), 25 and 47(2) of, and paragraphs 1 and 4(b) of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991 and is subject to the negative resolution procedure.

2. Purpose of the Rule

- 2.1 This rule provides for the implementation in Northern Ireland of Commission Decision 2010/172/EU amending Decision 2002/840/EC as regards the list of approved facilities in third countries for the irradiation of foods (OJ No. L75, 23.3.2010, p.33).
- 2.2 The rule will amend Schedule 4 (List of facilities outside the European Community) to the Food Irradiation Regulations (Northern Ireland) 2009 (S.R. 2009 No. 258) in order to implement this Commission Decision - which adds three facilities in India to the list of approved third country facilities. The 2009 Regulations regulate the treatment of food with ionising radiation (X-rays, gamma rays or beams of electrons), referred to as “food irradiation”, and the importation and sale of irradiated food.
- 2.3 This rule will also amend Schedule 3 (List of approved facilities in Member States) and make a minor drafting improvement to Schedule 2 (Licences) to the 2009 Regulations.

3. Matters of special interest to the Health Committee

- 3.1 Article 7(4) of Directive 1999/2/EC (O.J. No. L66, 13.3.1999, p.16) requires the Commission to publish details of Member State food irradiation facilities and any changes in their status in the Official Journal (OJ). These details were initially published in the C Series of the OJ, but since 2004 have been replaced by a list published solely on the Commission website. On 4 January 2010, the version of this list on which Schedule 3 to the 2009 Regulations was based was replaced with the current (undated) list, which includes three new Member State facilities. Recent correspondence between the Agency and the Commission has confirmed that it was considered by the Commission that it sufficed for “official publication” to be on the website rather than in the OJ but that, following our query, they are now reconsidering this position. In the meantime, as the Commission clearly intends that the website list should be the official list for the purposes of Article 7(4) of Directive 1999/2/EC, we are implementing the new list accordingly. If the new list is not implemented, irradiated food from the three newly listed Member State facilities, each approved by the relevant Member State in accordance with Directive 1999/2/EC, would not be reflected in the 2009 Regulations, which would obstruct legitimate free trade within the European Union.
- 3.2 The rule also makes a minor drafting improvement to paragraph 9(1)(b) of Schedule 2, which was recommended by the Scottish Parliament during scrutiny of their parallel legislation to the 2009 Regulations and is likewise being included here as the text is identical in this respect in the Northern Ireland Regulations.

4. Legislative Background

- 4.1 The processes of treating food with X-rays, gamma rays or beams of electrons is currently controlled under Directive 1999/2/EC relating to foods and food ingredients treated with ionising radiation. The provisions of that Directive are fully implemented by The Food Irradiation Regulations (Northern Ireland) 2009.
- 4.2 Although food irradiation is not widely utilised in the UK, it is gaining favour in other parts of the world, such as the USA, India and in the Far East. It is therefore important that we ensure our procedures for accepting food irradiated outside the Community meets the legal standards set by the European Commission.
- 4.3 Article 9 of Directive 1999/2/EC states that irradiated food must not be imported from a third-country unless it originates from a facility approved by the European Union. Article 9 also includes the procedures by which new facilities can be approved. In 2008, three facilities in India were inspected under these procedures and have now been added to the list of approved facilities by Commission Decision 2010/172/EU. This Decision amends Decision 2002/840/EC.

5. Parity or Replicatory Measure

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

6. European Convention on Human Rights

- 6.1 As this Rule is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

- 7.1 European Directive 1999/2/EC established a harmonised framework of controls on food irradiation. It covers areas including the conditions for treatment, the rules governing the approval and control of irradiation and the trade in irradiated foods, which are implemented in the 2009 Regulations. Irradiation can be used to reduce food-borne disease by destroying pathogenic organisms. It can also delay ripening, prevent sprouting and delay other deterioration. Finally, irradiation can be used as a phytosanitary measure. Directive 1999/2/EC also establishes the rules on labelling of irradiated food and food ingredients, but these are implemented in the NI by the Food Labelling Regulations (Northern Ireland) 1996 (as amended), as regards products ready for the final consumer.
- 7.2 The treatment and sale of irradiated food has not been widely adopted in the UK; there is a single licensed facility in the UK, which is licensed to irradiate a variety of herbs and spices and few irradiated foods are on sale on the UK market.
- 7.3 Changes to the Regulations are necessary at this time for the reason given in paragraph 4.3.

8. Consultation

- 8.1 A six-week consultation was undertaken between the 25 June and 6 August 2010. The consultation was held for six weeks because of the need to implement the Decision as soon as possible after publication. Commission Decision 2010/172/EU was published on 23 March 2010 and came into force on 29 March when it was formally notified to the UK by

the Commission, but the making of the instrument was interrupted due to the general election and dissolution of Parliament.

8.2 No responses were received to the consultation in Northern Ireland.

9. Guidance

9.1 As this is predominantly an update of existing legislation and the market in irradiated foods is small, no specific guidance has been produced to accompany this legislation.

10. Equality Impact

10.1 These regulations will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the section 75 groups.

11. Impact

11.1 As there will be no impact on businesses (or other sectors) from this measure, an Impact Assessment has not been produced.

12. Regulating small business

12.1 The legislation applies to small business. However, there are no small firms operating in the food irradiation market in the UK and the Agency is not aware of any small firms who would be likely to enter the market.

13. Monitoring and review

13.1 The policy will be reviewed in July 2012, three years after implementation of the 2009 Regulations.

14. Contact

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