

## EXPLANATORY MEMORANDUM

### The Food Safety (General Food Hygiene) (Amendment) (England) Regulations 2004 No.1727

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

This Memorandum contains information for the Joint Committee on Statutory Instruments.

#### **Description**

- 2.1 This new S.I. transposes Commission Directive 2004/4/EC in England. Directive 2004/4/EC applies to edible fats and oils transported in bulk by sea vessels.

#### **3. Matters of special interest to the JCSI**

- 3.1 The short time since publication of the Directive has resulted in the UK not meeting the transposition deadline (1 June 2004).
- 3.2 A Regulatory Impact Assessment (RIA) has not been prepared as the effects of the proposals are likely to be negligible and there is no scope for interpretation at a national level. However, comments were sought during consultation as to whether consultees felt an RIA would be required. No comments were received on this issue.

#### **4. Legislative Background**

- 4.1 Directive 2004/4/EC is a consumer protection and single market measure that amends EC Directive 96/3/EC of 26 January 1996, which sets out the EC list of acceptable substances that can be carried immediately prior to transporting edible fats and oils by sea. The new Directive increases the existing list of approximately 90 substances by 5 on the basis of an assessment by the EC Scientific Committee on Food. A transposition note is attached at Annex 1.
- 4.2 Existing legislation in the UK, Chapter IV of Schedule 1 to the Food Safety (General Food Hygiene) Regulations 1995 (as amended) requires that the bulk transport in sea-going vessels of liquid oils or fats intended for human consumption should only be permitted in tanks if previous cargoes transported in those tanks are from the "list of acceptable previous cargoes for liquid oils or fats" as defined in regulation 2(1) of those Regulations. This instrument substitutes a revised definition of the phrase "List of acceptable previous cargoes for liquid oils or fats".

#### **5. Extent**

- 5.1. This instrument applies to England only. Parallel legislation is being developed by the devolved administrations to cover Scotland, Wales and Northern Ireland.

#### **6. European Convention on Human Rights**

The Health Minister has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view, the provisions of The Food Safety (General Food Hygiene) (Amendment) (England) Regulations 2004 are compatible with the Convention rights.

**7. Policy Background**

- 7.1 Directive 2004/4/EC is a consumer protection and single market measure that updates the EC list of acceptable previous cargoes for the bulk transport of edible fats and oils by sea.
- 7.2 The new S.I. accurately transposes Directive 2004/4/EC. A full consultation on the new regulations was carried out, at the end of which only one response was received. This response requested the publication of guidance notes to accompany the Regulations and a suggestion that importers be encouraged to pre-notify the Port Health Authority of their intention to import such cargoes. Guidance notes will be prepared as with normal S.Is and this suggestion will be considered.

**8. Impact**

- 8.1 A Regulatory Impact Assessment (RIA) has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is negligible.

**9. Contact**

Paul Nunn at the Food Standards Agency Tel: 020 7276 8162 or e-mail: [paul.nunn@foodstandards.gsi.gov.uk](mailto:paul.nunn@foodstandards.gsi.gov.uk) can answer any queries regarding the instrument.

### TRANSPOSITION NOTE

**Council Directive 2004/4/EC amending Directive 96/3/EC granting a derogation from certain provisions of Council Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport of bulk liquid oils and fats by sea**

- The above Directive amends EC Directive 96/3/EC of 26 January 1996, which sets out the EC list of acceptable substances that can be carried prior to transporting edible fats and oils by sea. This list has been reviewed and an updated list is presented in EC Directive 2004/4/EC. (OJ No. L15, 22.1.2004, p.25).
- Council Directive 2004/4/EC is transposed into English legislation by The Food Safety (General Food Hygiene) (Amendment) (England) Regulations 2004. Separate but similar law applies in Scotland, Wales, and Northern Ireland.
- The Food Safety (General Food Hygiene) Regulations 1995 are amended. (There are other amending instruments but none are relevant.)

<b>Provision of Directive</b>	<b>Purpose</b>	<b>Provision of Regulations</b>
<b>Article 1 and Annex</b>	To replace the list of acceptable previous cargoes in the Annex to Directive 96/3/EC.	<b>Regulation 2</b>
<b>Article 2</b>	To list the provisionally acceptable substances for reassessment on the basis of new scientific data and review of the Annex by 31 December 2006.	
<b>Article 3</b>	Implementation date for Member States to bring provisions into force by 1 June 2004.	<b>Regulation 1</b>
<b>Article 4</b>	Coming into force date of the Directive.	