

**EXPLANATORY MEMORANDUM TO THE  
MISCELLANEOUS FOOD ADDITIVES (AMENDMENT) (ENGLAND)  
REGULATIONS 2005**

**2005 No. 1099**

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty. Its purpose is to assist the reader in understanding the Regulations it accompanies.

- 2 **Description**

This Statutory Instrument updates in England the rules relating to the use of miscellaneous additives in foods. The Miscellaneous Food Additives Regulations 1995 (as amended) implement all existing European legislation relating to miscellaneous additives. These Regulations amend the 1995 Regulations.

- 3 **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

- 4 **Legislative Background**

**General**

- 4.1 The Miscellaneous Food Additives (Amendment) (England) Regulations 2005 are being made to implement the provisions of European Parliament and Council Directive 2003/114/EC, which itself amends European Parliament and Council Directive 95/2/EC.
- 4.2 The ministerial powers under which the Regulations are made are Sections 16(1) (a), 17(1), 26 (1) and (3) and 48 (1) of, and paragraph 1 of Schedule 1 to, the Food Safety Act 1990.

**EU Legislation**

- 4.3 A Transposition Note showing how the key elements of Directive 2003/114/EC are being implemented is attached at Annex A.
- 4.4 Council Directive 2003/114/EC of 22 December 2003 was published in the Official Journal of the European Communities (L24/58) on 29 January 2004 and amends Directive 95/2/EC for the fifth time. Directive 95/2/EC sets out a list of authorised miscellaneous additives, the foodstuffs in which they may be used and their conditions of use.
- 4.5 An Explanatory Memorandum on this dossier was issued on 24 December 2002 and cleared scrutiny in both Houses on 8 January 2003.

## 5. Extent

The Regulations apply to England only.

## 6 European Convention on Human Rights

The Parliamentary Under Secretary for Public Health has made the following statement regarding Human Rights:

In my view the provisions of the Miscellaneous Food Additives (Amendment) (England) Regulations 2005 are compatible with the Convention Rights.

## 7 Policy Background

7.1 Council Directive 95/2/EC forms part of the Single Market initiative on the use of additives in the European Union and ensures consumer protection measures are in place in relation to miscellaneous additives.

7.2 Directive 95/2/EC was amended on this occasion to incorporate recent technical and scientific developments in relation to miscellaneous additives.

7.3 The key aspects are:

- the authorisation of one new food additive, hydrogenated poly-1-decene (E 907) for use as a glazing agent for sugar confectionery and dried fruits, and a number of new food uses for currently permitted food additives;
- the clarification or extension of certain food categories in which permitted miscellaneous food additives may be used, and the introduction of alternative names - cellulose gum and enzymatically hydrolysed cellulose gum - for E 466 (carboxy methyl cellulose and E 469 (enzymatically hydrolysed carboxy methyl cellulose) respectively;
- the deletion of one food category (cider and perry) from the foods permitted to contain phosphates (E 338 – 452);
- the introduction of numerical maximum limits for uses of carnauba wax (E 903) following recent advice from the Scientific Committee on Food. This was previously permitted to be used at *quantum satis* level (i.e in line with good manufacturing practice);
- the extension of the scope of the existing food additive category of stabilisers to cover binding agents.
- the introduction of harmonised controls on additives needed for the storage and use of flavourings. At present, different laws apply in individual Member States to these substances, with no specific controls existing in the UK, although any substance added to food must meet the general requirements of the Food Safety Act 1990.

- E407a, in addition to E407 and E440, may now be standardised with sugars, provided that this is stated wherever the number and designation of the additive is stated (which includes when labelled in ingredients lists).

7.4 Public consultations were carried out on the Commission's proposal to amend Council Directive 95/2/EC. Details of the responses to the consultation are included in the Regulatory Impact Assessment at Annex B. The level of public interest was low for this consultation exercise as shown by the limited number of responses received (eight responses to the consultation).

## 8 **Impact**

8.1 A number of flavourings companies have, via their trade organisation the British Essence Manufacturers' Association, claimed the necessary reformulation of flavouring preparations is likely to result in quite substantial costs.

8.2 Manufacturers will not be required to withdraw products not complying with the provisions of the Directive until January 2006, which will help to reduce the negative impact of any reformulation costs. It is, moreover, normal industry practice to routinely reformulate flavouring products to improve consumer acceptability, cost effectiveness etc. Therefore no significant financial impact on business is likely.

8.3 All companies operating in the EU will be required to meet the restrictions set out in the new Directive – this is not just an issue for the UK.

8.4 A Regulatory Impact Assessment is attached at Annex B. Copies can be obtained from Benedict Duncan<sup>1</sup>. There are no identifiable costs to the public or the Exchequer.

## 9 **Contact Point**

Alison Asquith at the Food Standards Agency (Tel: 0207 276 8000 or E-mail: [alison.asquith@foodstandards.gsi.gov.uk](mailto:alison.asquith@foodstandards.gsi.gov.uk)) can answer any queries regarding the instrument.

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<sup>1</sup> Benedict Duncan, Food Standards Agency, Rm 515C Aviation House, 125 Kingsway, London, WC2B 6NH [benedict.duncan@foodstandards.gsi.gov.uk](mailto:benedict.duncan@foodstandards.gsi.gov.uk)