

**EXPLANATORY MEMORANDUM TO THE  
FOOD LABELLING (AMENDMENT) (ENGLAND) (No.2) REGULATIONS 2005**

**2005 No. 2057**

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

**2. Description**

2.1 The Statutory Instrument provides for the administration and enforcement (including penalties and offences) of Commission Directive 2005/26/EC of 21 March 2005 establishing a list of food ingredients or substances provisionally excluded from Annex IIIa of Directive 2000/13/EC of the European Parliament and of the Council. This Directive provides provisional exemptions for ingredients derived from allergens that are no longer allergenic, from the requirement to be listed as allergens on food labels. Thus avoiding over labelling and reducing consumer choice.

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

3.1 None

**4. Legislative Background**

4.1 The ministerial powers under which this SI is made are sections 16(1)(e) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990, as amended.

4.2 This Statutory Instrument amends the Food Labelling Regulations 1996 (SI 1996 No. 1499), as amended, in relation to England only. It implements Directive 2005/26/EC, which provides some exceptions from the allergen labelling requirements in food labelling Directive 2000/13/EC, as amended.

4.3 A transposition note is attached at Annex I.

**5. Extent**

5.1 This instrument applies in relation to England only.

5.2 Devolved administrations in Scotland, Wales and Northern Ireland are producing parallel legislation.

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

6.1 The Parliamentary Under Secretary of State for Health, Caroline Flint has made the following statement regarding Human Rights:

‘In my view the provisions of The Food Labelling (Amendment) (England) (No. 2) Regulations 2005 are compatible with the Convention rights.’

## **7. Policy background**

7.1 Food allergy and food intolerance is thought to affect about 2 million people in the UK. Symptoms range from relatively mild to life-threatening (anaphylactic shock). Although most children grow out of it, there is no cure for food allergy or food intolerance, and the only way to avoid symptoms is to avoid the food in question.

7.2 New food labelling rules in England will require food labels to be more comprehensive from 25 November 2005, so that consumers can identify those ingredients they may need or wish to avoid. The rules abolish the ‘25% rule’, under which ingredients of a compound ingredient of a food do not have to be declared if the compound ingredient makes up less than 25% of the finished product, and introduce a requirement to declare any of 12 specified food allergens on the labelling.

7.3 According to the allergen labelling rules noted in paragraph 7.2, any of 12 specified allergens and their derived ingredients will have to be labelled whenever they are present in prepacked food, including alcoholic drinks. The purpose of Directive 2005/26/EC is to exempt from labelling the derivatives of food allergens that are not allergenic, provided there sufficient scientific justification. This will reduce burdens on industry and improve information given to consumers.

7.4 Over 1000 interested parties were consulted on the draft statutory instrument, Partial Regulatory Impact Assessment (RIA) and Guidance Notes, of which 14 responded. A brief analysis of the responses is provided in the final RIA. The legislation is not likely to be politically or legally significant.

## **8. Impact**

8.1 The Full Regulatory Impact Assessment is attached at Annex II.

8.2 As the legislation will exempt ingredients that would have had to be labelled from the requirement to be labelled, there are no identifiable costs to the public.

## **9. Contact**

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