

**EXPLANATORY MEMORANDUM TO  
THE ADDITION OF VITAMINS, MINERALS AND OTHER SUBSTANCES  
(ENGLAND) (AMENDMENT) REGULATIONS 2010**

**2010 No. 1886**

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The instrument amends national Regulations which provide for the execution and enforcement of a European Union (EU) Regulation on the addition of vitamins, minerals and other substances to foods, to make an ambulatory reference to the Annexes to the EU Regulation which list the vitamins, minerals and their sources permitted for addition to foods.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 The addition of vitamins and minerals and other substances to foods (also known as ‘fortification’) is regulated in the EU under Regulation (EC) No. 1925/2006 of 20 December 2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods (‘Regulation 1925/2006’). The Regulation is directly applicable in EU Member States.
  - 4.2 The Addition of Vitamins, Minerals and Other Substances (England) Regulations 2007 (SI 2007/1631) as amended (‘the national Regulations’) provide for the execution and enforcement of Regulation 1925/2006 in England.
  - 4.3 The instrument amends the national Regulations to provide for the execution and enforcement, in England, of future amendments to the Annexes to Regulation 1925/2006.
5. **Territorial Extent and Application**
  - 5.1 The instrument applies in England. Separate but parallel legislation is being made in Scotland, Wales and Northern Ireland.
6. **European Convention on Human Rights**
  - 6.1 As the instrument 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 Commission Regulation (EC) No. 1170/2009, which came into force on 21 December 2009, added 1 mineral and 10 vitamin and mineral sources to the Annexes to Regulation 1925/2006. The Food Supplements (England) and Addition of Vitamins, Minerals and Other Substances (England) (Amendment) Regulations 2009 (SI 2009/3251) amended the national Regulations for the first time to provide for the execution and enforcement of Regulation 1925/2006 in its amended form.

7.2 In the interests of simplification and better regulation, it is desirable to avoid the need to make national legislation each time amendments are made to the Annexes to Regulation 1925/2006, simply to provide for the execution and enforcement of the Regulation in its amended form.

7.3 The instrument therefore amends the national Regulations to make an ambulatory reference to the Annexes to Regulation 1925/2006, in exercise of the power to make ambulatory references provided by paragraph 1A of Schedule 2 to the European Communities Act 1972. This provides for the execution and enforcement of any future amendments to the Annexes to Regulation 1925/2006, without the need for further national legislation.

- *Consolidation*

7.4 The instrument amends the national Regulations for the second time. The national Regulations are not being consolidated on this occasion.

## **8. Consultation**

8.1 The Food Standards Agency maintains a database of interested parties who have asked to be consulted whenever any changes to legislation relating to the addition of vitamins, minerals and certain other substances to foods are being considered, or there are other developments in this area. This database includes trade organisations, bodies which represent local authority enforcement authorities, professional bodies, consumer bodies and other interested parties.

8.2 A public consultation on a draft of the instrument was carried out by the Food Standards Agency for a period of 12 weeks from 31 March to 23 June 2010. A total of 6 responses to the consultation were received, with stakeholders being broadly supportive of the proposals. A summary of consultation responses will be published on the Food Standards Agency's website.

## **9. Guidance**

9.1 The Food Standards Agency's guidance on the addition of vitamins and minerals and of certain other substances to food provides advice on compliance and, whilst aimed primarily at industry, is also of use to enforcement authorities.

9.2 As the amendment the instrument makes is technical in nature and relates solely to ambulatory references directed at the Annexes to Regulation 1925/2006, the guidance will not be revised.

9.3 The Food Standards Agency will be writing to enforcement authorities, their representative bodies and other stakeholders to inform them of the legislative changes.

## **10. Impact**

10.1 The instrument makes a technical amendment to the national Regulations which will not place any additional burdens on stakeholders, other than the one-off impact associated with being aware of, and becoming familiar with, the amendment and its effect on the national Regulations. An Impact Assessment has therefore not been prepared.

## **11. Regulating small business**

11.1 The instrument applies to small business. Small businesses will not be exempted because the instrument does not place any new burdens on them.

## **12. Monitoring and review**

12.1 Article 14 of Regulation 1925/2006 requires the European Commission to submit to the European Parliament a report on the application of the Regulation by 1 July 2013. The costs and benefits of the instrument will be monitored and reviewed in the course of the UK's participation in this process.

## **13. Contact**

13.1 Vivien Lund at the Food Standards Agency Tel: 020 7276 8764 or email: [vivien.lund@foodstandards.gsi.gov.uk](mailto:vivien.lund@foodstandards.gsi.gov.uk) can answer any queries regarding the instrument.