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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision to enforce, in England, certain provisions of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ No L 304, 22.11.2011, p 18) (“FIC”).

They also implement, in England, certain provisions of Article 6 of Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation (OJ No L 66, 13.3.1999, p 16) and the second paragraph of subparagraph 1 of Article 3 of Directive 2000/36/EC of the European Parliament and of the Council relating to cocoa and chocolate products intended for human consumption (OJ No L 197, 3.8.2000, p 19).

Regulation 3 contains a derogation relating to milk or milk products presented in a glass bottle intended for reuse. Regulation 4 and Schedule 2 provide a derogation relating to the use of a minced meat designation for minced meat that does not comply with the requirements laid down in point 1 of Part B of Annex VI to FIC.

Regulation 5 enables particulars relating to an allergenic substance or product in a non-prepacked food to be made available (subject to the provisions of the regulation) using any means that a food business operator chooses. The required particulars must be made available under FIC but can be made available using the means provided for in FIC or in accordance with the provisions of regulation 5.

Regulation 6 requires the name of the food to be provided in the case of certain non-prepacked foods and foods prepacked for direct sale. Regulation 7 requires a quantitative indication of the meat content to be given in the case of certain products. Those particulars must be given in one of the ways specified in regulations 6(4) (in the case of the name of the food) and 7(5) (in the case of the meat content indication). The provisions of regulations 6(4) and 7(5) do not apply to an offer for sale made by means of distance communication. Article 14(2) of FIC (as read with other relevant provisions of FIC) applies in the case of such an offer.

Regulation 1(9) provides for regulations 5, 6 and 7 to cease to have effect on 13th December 2021.

Regulation 8 requires certain information to be provided when irradiated food products or food products containing an irradiated ingredient are sold in bulk and when irradiated ingredients are used in certain prepacked food products.

Regulation 9 imposes an obligation on food authorities and port health authorities to enforce the Regulations and empowers other district councils (which are not defined as food authorities for this purpose) to enforce certain allergen-related provisions. Regulation 10 makes it an offence to fail to comply with specified provisions of FIC and the allergen-related requirement in regulation 5(5). Regulation 11 provides for the punishment of that offence.

Regulation 12 and Schedule 4 apply certain provisions of the Food Safety Act 1990 (1990 c. 16), with modifications. This includes the application (with modifications) of section 10(1), enabling an improvement notice to be served requiring compliance with specified provisions of FIC (except to the extent that some of the provisions apply to the mandatory particular relating to net quantity or

*Status: This is the original version (as it was originally made).*

quantity in general) or with specified provisions of regulations 5 to 8. The provisions, as applied, make the failure to comply with an improvement notice an offence.

Regulation 13 and entry 1 of the table in Part 1 of Schedule 6 revoke most of the Food Labelling Regulations 1996 (S.I. 1996/1499) on 13th December 2014 so far as those Regulations apply to England. Regulation 13 and entry 1 of the table in Part 2 of Schedule 6 revoke the remainder of the provisions in the Food Labelling Regulations 1996 (relating to alcohol-related terms, cream and cheese) on 13th December 2018 so far as those Regulations apply to England. Regulation 13 and Schedule 6 also revoke other relevant statutory instruments. With some exceptions, the revocations have the same territorial extent and application as the statutory instruments being revoked.

Regulation 14 and Schedule 7 amend the Food Labelling Regulations 1996, so far as those Regulations apply to England, during the period before those Regulations are revoked (as described above). They make amendments to other statutory instruments to take account of the repeal and replacement of the relevant EU legislation and the revocation of the Food Labelling Regulations 1996. With some exceptions, the amendments have the same territorial extent and application as the statutory instruments being amended.

Regulation 14 and Part 1 of Schedule 7 also amend the Food (Lot Marking) Regulations 1996 (S.I. 1996/1502), in their application to England, to take account of the repeal and replacement of Council Directive 89/396/EEC (OJ No L 186, 30.6.1989, p 21) by Directive 2011/91/EU of the European Parliament and of the Council on indications or marks identifying the lot to which a foodstuff belongs (OJ No L 334, 16.12.2011, p 1). Part 2 of Schedule 7 contains the provision implementing the second paragraph of subparagraph 1 of Article 3 of Directive 2000/36/EC of the European Parliament and of the Council (mentioned above).

Regulation 15 requires the Secretary of State to review the operation and effect of these Regulations from time to time and to publish a report before 13th December 2019 and within every five years after that.

Following the first review it will fall to the Secretary of State to consider whether regulations 5, 6 and 7, and regulation 12 and Schedule 4 so far as they relate to those regulations, should be allowed to expire as regulation 1(9) provides, be revoked early, or to continue in force with or without amendment. A further instrument would be needed to continue regulations 5, 6 and 7, and regulation 12 and Schedule 4 so far as they relate to those regulations, in force with or without amendment or to revoke them early.

It will also fall to the Secretary of State to consider whether the remainder of these Regulations should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke or amend the remainder of these Regulations.

A full impact assessment of the effect these Regulations will have on the costs of business, the voluntary sector and the public sector is available from the Food Policy Unit, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside the Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk).