

EXPLANATORY MEMORANDUM

Explanatory Memorandum to The Spreadable Fats (Marketing Standards) (Wales) Regulations

This Explanatory Memorandum has been prepared by The Food Standards Agency Wales and is laid before the National Assembly for Wales.

(i) **Description**

These Regulations provide for the execution and enforcement of Commission Regulation (EC) NO. 445/2007 laying down certain detailed rules for the application of Council Regulation (EC) No. 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No. 1898/87 on the protection of designation used in the marketing of milk and milk products. These Regulations amend the Spreadable Fats (Marketing Standards) (Wales) Regulations 2001 S.I 2001/1361 (W.89).

(ii) **Matters of special interest to the Subordinate Legislation Committee**

None

(iii) **Legislative Background**

The powers enabling this Instrument to be made are contained in the Food Safety Act 1990. Sections 16(1)(f), 17(1), 26(3) and 48(1) of the Food Safety Act 1990 were transferred to the National Assembly and have now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. This instrument is subject to the negative resolution procedure.

(iv) **Purpose and intended effect of the legislation**

The European Commission has recently consolidated Regulation (EC) No. 577/97 and its amendments, which sets criteria for labelling fat content on spreadable fats and specifies where the description 'butter may be used on composite products. The consolidated text, Commission Regulation (EC) No. 445/2007, hereafter known as the consolidated Regulation, adds no new provisions, but came into force on 14 May 2007.

In Wales the Spreadable Fats (Marketing Standards) (Wales) Regulations 2001 S.I 2001/1361 (W.89) needs to be changed to refer to the consolidated Regulation rather than Regulation (EC) No. 577/97 and its amendments, otherwise enforcement action cannot be taken under SI 2001/1361 (W.89).

UK industry will be legally obliged to comply with the consolidated Regulation as it is directly applicable. However, national legislation

needs to be amended as soon as possible so that Local Authorities can enforce the relevant provisions of the consolidated Regulation.

(v) **Implementation**

These Regulations be made on 3 July 2007 and are intended to come into force on 31 July 2007. Similar legislation will come into force in England, Scotland and Northern Ireland on 12 July 2007. The implementation of these Regulations would fulfil the UK's obligations under the EC Treaty and will provide Local Authorities with the power to enforce against food business operators who are not in compliance with the new consolidated Regulation. Although, there is no major impact for industry or enforcement bodies from making these Regulations slightly later in Wales, failure to implement them will lead to inconsistency in UK law.

(vi) **Consultation**

Although a full 12 week public consultation was not conducted in this instance, interested parties UK wide were informed of the change by way of an IP letter and were given two weeks to raise any issues or comments. No comments were raised from industry representatives but Local Authorities have expressed some concern with their inability to enforce against food business operators who are not in compliance with the consolidated Regulation, pending the introduction of amended domestic legislation. No comments were received from Welsh interested parties.

(vii) **Regulatory Impact Assessment**

A Regulatory Impact Assessment has not been carried out as no changes have been made to the legal requirements impinging on the private or voluntary sector. These regulations have no impact on statutory duties or partners.