



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**        **The Nutrition (Amendment etc) (EU Exit) Regulations 2019**

**DATE**        **8 February 2019**

**BY**            **Rebecca Evans AM, Minister for Finance and Trefnydd**

### **The Nutrition (Amendment etc) (EU Exit) Regulations 2019 (“the Regulations”)**

This written statement has been re-issued due to the Regulations being laid by the UK Government on 16 January, withdrawn, re-laid on 17 January, withdrawn then laid again on 30 January. This was due to the need to correct errors in the Regulations which were picked up at scrutiny post laying. The amendments made do not change the purpose or effect of the Regulations.

### **The main retained EU law which is being amended**

- Regulation (EC) 1924/2006 sets out the legal framework businesses must comply with if they want to make nutrition or health claims to ensure that claims are accurate and consumers are not misled.
- Regulation (EC) 1925/2006 which stipulates which vitamins, minerals, and certain other substances may be added to foods; sets out how new substances may be assessed and approved; and outlines compositional and labelling requirements for foods that have substances added to them.
- Regulation (EC) 609/2013 sets general compositional and labelling rules for four food categories those being infant and follow-on formula, processed cereal-based food and baby foods, food for special medical purposes (foods necessary for the management of particular medical conditions) and total diet replacement for use in energy restricted diets for weight reduction.

### **The EU tertiary legislation which is subject to minor and technical amendment**

- Commission Regulation (EC) No 353/2008
- Commission Regulation (EC) No 953/2009
- Commission Regulation (EC) No 983/2009
- Commission Regulation (EC) No 984/2009
- Commission Regulation (EC) No 1024/2009
- Commission Regulation (EC) No 1025/2009

- Commission Regulation (EC) No 1167/2009
- Commission Regulation (EC) No 1168/2009.
- Commission Regulation (EU) No 375/2010
- Commission Regulation (EU) No 382/2010
- Commission Regulation (EU) No 383/2010
- Commission Regulation (EU) No 384/2010
- Commission Regulation (EU) No 957/2010
- Commission Regulation (EU) No 958/2010
- Commission Regulation (EU) No 1161/2010
- Commission Regulation (EU) No 1162/2010
- Commission Regulation (EU) No 432/2011
- Commission Regulation (EU) No 440/2011
- Commission Regulation (EU) No 665/2011
- Commission Regulation (EU) No 666/2011
- Commission Regulation (EU) No 1160/2011
- Commission Regulation (EU) No 1170/2011
- Commission Regulation (EU) No 1171/2011
- Commission Implementing Regulation (EU) No 307/2012
- Commission Regulation (EU) No 378/2012
- Commission Regulation (EU) No 379/2012
- Commission Implementing Regulation (EU) No 489/2012
- Commission Regulation (EU) No 1048/2012
- 2013/63/EU: Commission Implementing Decision
- Commission Regulation (EU) No 851/2013
- Commission Regulation (EU) No 1017/2013
- Commission Regulation (EU) No 1066/2013
- Commission Regulation (EU) No 40/2014
- Commission Regulation (EU) No 155/2014
- Commission Regulation (EU) No 175/2014
- Commission Regulation (EU) No 1135/2014
- Commission Regulation (EU) No 1154/2014
- Commission Regulation (EU) No 1226/2014
- Commission Regulation (EU) No 1228/2014
- Commission Regulation (EU) No 1229/2014
- Commission Regulation (EU) 2015/7
- Commission Regulation (EU) 2015/8
- Commission Regulation (EU) 2015/391
- Commission Regulation (EU) 2015/402
- Commission Regulation (EU) 2015/539

- Commission Regulation (EU) 2015/1041
- Commission Regulation (EU) 2015/1052
- Commission Regulation (EU) 2015/1886
- Commission Regulation (EU) 2015/1898
- Commission Regulation (EU) 2015/2314
- Commission Delegated Regulation (EU) 2016/128
- Commission Regulation (EU) 2016/371
- Commission Regulation (EU) 2016/372
- Commission Implementing Regulation (EU) 2016/854
- Commission Regulation (EU) 2016/862
- Commission Regulation (EU) 2016/1379
- Commission Regulation (EU) 2016/1381
- Commission Regulation (EU) 2016/1389
- Commission Regulation (EU) 2016/1390
- Commission Regulation (EU) 2016/1411
- Commission Regulation (EU) 2016/1412
- Commission Regulation (EU) 2017/236
- Commission Implementing Regulation (EU) 2017/672
- Commission Implementing Regulation (EU) 2017/676
- Commission Regulation (EU) 2017/1200
- Commission Regulation (EU) 2017/1201
- Commission Regulation (EU) 2017/1202
- Commission Regulation (EU) 2018/199
- Commission Regulation (EU) 2018/1555
- Commission Regulation (EU) 2018/1556

#### **The EU tertiary legislation which is being revoked**

- Commission Regulation (EU) No 907/2013

#### **Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence**

The Regulations contain provision which enable the Welsh Ministers to exercise functions in relation to Wales without encumbrance. It also contains provision whereby the Welsh Ministers could provide consent to the Secretary of State to exercise functions in relation to Wales on their behalf.

Functions transferred to the Secretary of State with consent would constitute functions of a Minister of the Crown for the purposes Schedule 7B to Government of Wales Act 2006. This therefore may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas.

#### **The purpose of the amendments**

The purpose of the amendments is to correct deficiencies arising from the UK leaving the European Union in the retained direct EU legislation relating to nutrition. The Regulations

will make technical amendments to the retained direct EU law without making any material change in the level of protection given to human health or to the high standard of food consumers expect from both domestically produced and imported products.

The Regulations will make technical fixes such as removing references to EU institutions and other Member States and will define ‘third countries’ as any country outside of the UK. The main corrections proposed by these Regulations involve the transfer of scientific advisory functions currently undertaken by European Food Safety Authority (EFSA) to existing appropriate UK bodies or to a newly established UK Nutrition and Health Claims Committee (UKNHCC). This new committee will be established under the remit of Public Health England and will be responsible for the scientific substantiation and providing advice to the four UK administrations on any new nutrition and health claims made within the UK post exit.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/SqFamWTC>

### **Why consent was given**

There is no divergence between the Welsh Government and the UK Government (Department of Health and Social Care) on the policy for the corrections. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.