

Explanatory Memorandum to the Transfer of Functions (Food) (Wales) Regulations 2014

This Explanatory Memorandum has been prepared by Department of Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Transfer of Functions (Food) (Wales) Regulations 2014.

Mark Drakeford AM
Minister for Health and Social Services

25 April 2014

Description

1. From 1 October 2010 nutrition policy transferred from the Food Standards Agency (“FSA”) to the Welsh Government in Wales (and the Department of Health in England). The policy areas transferred includes nutrition and health claims issues and foods for particular nutritional uses.
2. These Regulations amend four statutory instruments to reflect these administrative changes.

Matters of special interest to the Constitutional and Legislative Affairs Committee

3. There are none

Legislative background

4. The powers enabling this instrument to be made are conferred by sections 6(4), 16(1) (e) and (f), 17(1) and (2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990 as read with section 2(2) of the European Communities Act 1972. These powers, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, as read with section 40(3) of the Food Standards Act 1999 and were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (“GOWA 2006”).

Purpose & intended effect of the legislation

5. The purpose is to change the designated competent authority under the existing statutory instruments, from the Food Standards Agency to the Welsh Government Ministers.
6. The competent authority is required to be notified (under each of the instruments) before certain foods are placed on the market or, before certain health claims are made in respect of foods to be placed on the market.
7. These amendments will bring the legislation into line with the changes and the consequent transfer of staff, and areas of responsibility, from the FSA in Wales to the Welsh Government. The proposed changes do not reflect any change in policy but merely a transfer of functions from one government department to another.
8. The four statutory instruments being amended by the Regulations are:
 - The Medical Food (Wales) Regulations 2000 (SI 2000/1866)

- The Notification of Marketing of Food for Particular Uses (Wales) Regulations 2007 (SI 2007/1040)
 - The Nutrition and Health Claims (Wales) Regulations 2007 (SI 2007/2611)
 - The Infant Formula and Follow-on Formula (Wales) Regulations 2007 (SI 2007/3573)
9. The Regulations will also amend a drafting error in the Notification of Marketing of Food for Particular Uses (Wales) Regulation 2007, inserting a definition of “the Agency” for the FSA, which was omitted from the original Regulations.
10. The proposed Regulations will apply to Wales only. Equivalent Regulations have been implemented in other devolved administrations.

Consultation

11. No consultation has been undertaken as the transfer of nutrition policy has already taken place and the proposed Regulations simply reflect these changes. The changes in these Regulations do not reflect any change or development in food policy; they are merely administrative in nature.

Regulatory Impact Assessment (RIA)

12. No Regulatory Impact Assessment has been undertaken as there is no impact to the public. Businesses in Wales who are already required to submit notification (under each of the instruments), before certain foods are placed on the market or, before certain health claims are made in respect of foods to be placed on the market, will now submit them to WG officials instead of the FSA Wales.