

## **Explanatory Memorandum to The Food Labelling Declaration of Allergens (Wales) Regulations 2009**

This Explanatory Memorandum has been prepared by the Food Standards Agency Wales and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

### **Description**

These Regulations amend the Food Labelling Regulations 1996 to implement in Wales Commission Regulation (EC) No. 415/2009 which extends a temporary exemption from certain labelling requirements for wine. This exemption applies to the declaration on labels of lysozyme used in wine and of albumin (produced from egg) or milk products (in the form of casein) used as fining agents in wine. These are all ingredients which may cause an allergic reaction in some people.

### **Matters of special interest to the Subordinate Legislation Committee**

None.

### **Legislative Background**

This instrument implements Commission Regulation (EC) No 415/2009 of 20 May 2009 amending Directive 2007/68/EC which amends Annex IIIa to Directive 2000/13/EC of the European Parliament and of the Council as regards certain food ingredients.

The powers enabling the Regulations to be made are contained in Sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990. These are exercisable by Welsh Ministers. The Regulations are subject to the Assembly's negative resolution procedure.

### **Purpose and Intended effect of the legislation**

European Community (EC) Legislation requires that specified allergenic ingredients used in pre-packed foods are clearly declared. Annex IIIa to Directive 2000/13/EC provides a list of 14 allergens that have to be indicated on the label whenever they, or their derivatives, are used as deliberate ingredients in pre-packed food, including alcoholic drinks. In the UK, this is implemented by The Food Labelling Regulations 1996 (as amended) (FLR).

The FLR have since been amended a number of times to implement changes to EC legislation as regards allergenic ingredients. Commission Directive 2007/68/EC added certain foods or their derivatives to the list of ingredients that must be declared on label, but also removed ingredients where it has been established that due to processing the ingredient no longer contains the allergenic component. This was implemented in Wales by the Food Labelling (Declaration of Allergens) (Wales) Regulations 2008 and introduced, among other measures, the requirement to label the ingredients lysozyme used in wine and albumin (produced from egg) or milk products (in the form of casein) used as fining agents in wine, with a phase in period for compliance that expired on the 31st May 2009.

However, separate amendments to wine labelling rules were also introduced by Council Regulation (EC) No 479/2008 on the common organisation of the market in wine. These apply from 1 August 2009 but industry were given a transition period for compliance expiring on 31 December 2010. Given that wine operators would therefore be subject to two sets of changes to labelling requirements, Council Regulation (EC) No 415/2009 extends the transition period for the labelling of lysozyme used in wine and egg and milk ingredients used as fining agents in wine as allergens to 31 December 2010 so that the transition periods of Council Regulation (EC) No 479/2008 and Commission Directive 2007/68/EC coincide. The intention is to avoid unnecessary burdens on industry.

### **Implementation**

It is intended that these Regulations will come into force on 20 November 2009. Separate but parallel instruments will also come into force in England, Scotland and Northern Ireland on 20 November 2009.

### **Regulatory Impact Assessment**

The Agency has not produced a Regulatory Impact Assessment (RIA) as there are no changes to the requirements enforced by the new domestic legislation.

### **Consultation**

As no changes of substance have been made to the existing allergen labelling requirements, no financial or other impact on industry is foreseen. The Agency did not therefore conduct a full 12 week consultation on the draft Statutory Instrument or draw up an accompanying Impact Assessment. However, a shortened four-week consultation was issued on 7 July 2009 to allow interested parties the opportunity to comment on the draft SI and amended Agency Guidance on Allergen Labelling Provisions. This shortened consultation period also allowed the Agency to implement the rules as soon as possible and therefore ensure clarity for food businesses and enforcement officers.

Across the UK, five responses to the consultation were received; no comments were received from interested parties in Wales. On the draft SI, one response noted that lysozyme is used in wine, rather than used as a fining agent. Two further responses requested clarity on whether the scope of the SI extended to wine used as an ingredient in food. On the Agency guidance, two comments were received with regards to best practice labelling for foods such as chestnuts, pinenuts and coconut, which consumers expect to be labelled in the same way as nuts. The Agency has amended the SI and accompanying guidance to take account of these comments and a summary of the consultation responses and the action taken by the Agency will be published on the FSA website, [www.food.gov.uk](http://www.food.gov.uk).