STATUTORY RULES OF NORTHERN IRELAND

2009 No. 407

FOOD

The Food Supplements and the Addition of Vitamins, Minerals and Other Substances (Amendment) Regulations (Northern Ireland) 2009

Made - - - - 10th December 2009

Coming into operation 1st January 2010

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a) and (e), 16(1) and (2), 25(1)(a) and (3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**), as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

In accordance with Article 47(3A) of that Order, it has had regard to relevant advice given by the Food Standards Agency.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Health, Social Services and Public Safety that it is expedient for any reference to an Annex to Directive 2002/46/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to food supplements(**4**) to be construed as a reference to that Annex as amended from time to time.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**5**) there has been open and transparent public consultation during the preparation of the following Regulations.

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505

(**3**) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51)

(**4**) OJ No. L183, 12.7.2002, p.51, as last amended by Commission Regulation (EC) No. 1170/2009 amending Directive 2002/46/EC of the European Parliament and of Council and Regulation (EC) No. 1925/2006 of the European Parliament and of the Council as regards the lists of vitamins and minerals and their forms that can be added to foods, including food supplements (OJ No. L314, 1.12.2009, p.36)

(**5**) OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14)

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Food Supplements and the Addition of Vitamins, Minerals and Other Substances (Amendment) Regulations (Northern Ireland) 2009 and come into operation on 1st January 2010.

(2) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Food Supplements Regulations (Northern Ireland) 2003

2.—(1) The Food Supplements Regulations (Northern Ireland) 2003(**7**) are amended in accordance with the following paragraphs.

(2) In regulation (2)(1) (interpretation), for the definition "Directive 2002/46" there are substituted the following definitions—

> ""Directive 90/496" means Council Directive 90/496/EEC on nutrition labelling for foodstuffs(**8**) as amended by Commission Directive 2008/100/EC amending Council Directive 90/496/EEC on nutrition labelling for foodstuffs as regards recommended daily allowances, energy conversion factors and definitions(**9**);
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> "Directive 2001/83" means Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use(**10**) as last amended by Directive 2009/53/EC of the European Parliament and of the Council amending Directive 2001/82/EC and Directive 2001/83/EC, as regards variations to the terms of marketing authorisations for medicinal products(**11**);
>
> "Directive 2002/46" means Directive 2002/46/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to food supplements as last amended by Commission Regulation (EC) No. 1170/2009 amending Directive 2002/46/EC of the European Parliament and of the Council and Regulation (EC) No. 1925/2006 of the European Parliament and of the Council as regards the lists of vitamins and minerals and their forms that can be added to foods, including food supplements;"(**12**).

(3) Immediately after regulation 2(3) (interpretation) there is inserted—

> "(4) In these Regulations any reference to an Annex to Directive 2002/46 is a reference to that Annex as amended from time to time.".

(4) For regulation 3(2) (scope of Regulations), there is substituted—

> "(2) These Regulations do not apply to medicinal products as defined by Directive 2001/83.".

(5) In regulation 5 (prohibitions on sale relating to composition of food supplements)—

(a) at paragraph (1), omit the words 'subject to paragraph (3)';

(b) at paragraph (1)(a), for the words 'column 1 of Schedule 1' there is substituted "Annex I to Directive 2002/46";

(c) at paragraph (1)(b)(i), for the words "Schedule 2" there is substituted "Annex II to Directive 2002/46"; and

(d) paragraph (3) is omitted.

(**6**) 1954 c.33
(**7**) S.R. 2003 No.273, as amended by S.R. 2007 No.116; there is another amending Statutory Rule but it is not relevant
(**8**) OJ No. L276, 6.10.1990, p.40
(**9**) OJ No. L285, 29.10.2008, p.9
(**10**) OJ No. L311, 28.11.2001, p.67
(**11**) OJ No. L168, 30.6.2009, p.33
(**12**) OJ No. L314, 1.12.2009, p.36