

CYPE(6)-01-23 - Paper to note 14

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Y Dirprwy Weinidog Iechyd Meddwl a Llesiant
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Llywodraeth Cymru
Welsh Government

Russell George MS,
Chair, Health and Social Care Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

20 December 2022

Dear Russell

Food Supplement and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022

Thank you for your letter of 21 November 2022 regarding the above amending regulations.

If I take each of your points in order.

An Explanatory Memorandum will be laid alongside the Regulations in December, and I will forward a copy to the Committee.

1. Will these Regulations lead to divergence between GB and Northern Ireland? If so, what assessment has been made of whether any divergence could result in barriers to trade or public health matters?

No formal assessment of divergence regarding barriers to trade or public health was undertaken. These changes will help to safeguard the public by providing consistency and clarity for manufacturers, enforcement officers and the public.

2. Is the Scottish Government bringing forward its own Regulations in this respect? Scotland have brought forward its own regulations to make equivalent amendments to the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

3. Regulations brought forward by the UK Government are made only in English. Regulations brought forward by the Welsh Government must be made in Welsh and in English. To what extent did you consider whether legislation applicable to Wales should be available in both Welsh and English when making your decision on whether to consent to the Regulations?

I considered options for taking forward the proposed amending regulations which includes the option for Welsh Government to draft its own Statutory Instrument (SI) which addresses all amendments. However, to ensure alignment and enforcement with the rest of GB and EU, on this occasion it was felt necessary to progress on this basis. This proposed SI makes minor amendments to existing regulations rather than creating any new policy. Consent to the GBSI has not precluded the Welsh Ministers from taking a different approach upon receipt of any such future request, should it be considered that an alternative approach is warranted and/or preferable

4. Was the joint GB approach for these Regulations considered through the mechanisms set out in the Nutrition Labelling Composition and Standards Common Framework?

Yes, the joint approach was discussed as part of the Nutrition Related Labelling, Composition and Standards Working Group (NLCS). On the 9th March 2021 the European Commission amended Annex II of Directive 2002/46/EC to allow magnesium citrate malate to be a form of magnesium chloride and nicotinamide riboside chloride as a form of niacin used in the manufacture of food supplements. Following this legislative change in the EU and NLCS policy group considered the amendments and following a risk assessment and risk management processes set out in the NLCS framework (including scientific assessment), received GB ministerial consent to authorise nicotinamide riboside chloride as a form of niacin and magnesium citrate malate as a form of magnesium which can be used in food supplements.

5. What is the rationale for making the amendments to be set out in the Regulations? For example, are they for the purpose of keeping pace with changes to EU legislation, or do they reflect developments in the scientific evidence?


The purpose of these amendments varies. They are to correct errors: updating the units of measure for the labelling of zinc in food supplements, and a previously missed amendment to add zinc chloride and ferrous bisglycinate as permitted sources of vitamins and minerals for use in processed based baby foods and baby foods (baby foods) (the latter being applicable only to England in these Regulations as separate Welsh only Regulations will make the equivalent changes for Wales); to use different sources for certain vitamins and minerals to be added to food supplements, baby foods and infant formula and follow-on formula (IFFOF) and for consistency in labelling between food supplements and other types of food containing copper. The definition of pesticide residue will be updated from the terminology used in Regulation (EC) No 1107/2009 (concerning the placing of plant protection products on the market) to a more precise definition of residues taken from Regulation (EC) No 396/2005 (on maximum residue levels of pesticides in or on food and feed of plant and animal origin), providing more clarity and consistency with the definition which is used in the legislation for general food.

Whilst changes are technical in nature, they also ensure continued alignment with GB and EU on these matters.

6. What discussions have you had with the UK Government about the potential implications of the Retained EU Law (Revocation and Reform) Bill for these Regulations

The NLCS policy group are currently considering how best to discuss the future of the REUL and NIP bill work and whether this should be through the existing group or a separate sub-group with the appropriate colleagues.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lynne Neagle".

Lynne Neagle AS/MS

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Deputy Minister for Mental Health and Wellbeing