



EU bibliographies: Food Supplements Directive

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The EC Food Supplements Directive (2002/46/EC of 10 June 2002) was implemented in England by *Food Supplements (England) Regulations 2003* SI 2003/1387, with effect from 1 August 2005. Equivalent Regulations implemented the Directive in Scotland, Wales and Northern Ireland. Draft legislation to amend this Directive has been delayed and the European Commission is not expected to resume discussion until spring 2011.

This Note brings together documents relevant to UK legislation on the application of the EU Food Supplements Directive. It is not an attempt to define policy in this area. For information on policy developments contact Gavin Colthart extn 2882. See also Library Standard Notes listed.

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1 Food supplements Directive 2002/46/EC and Commission Regulation (EC) 1170/2009.

Commission Regulation (EC) 1170/2009 amending Directive 2002/46/EC of the European Parliament and Council and Regulation (EC) 1925/2006 of the European parliament and Council as regards the lists of vitamin and minerals and their forms that can be added to foods, including food supplements, [REG\(EC\)1170/2009](#), OJL 314, 1.12.2009.

Directive 2002/46/EC of the European Parliament and Council on the approximation of the laws of Member States relating to food supplements. [DIR2002/46/EC](#), OJL 183, 12.7.2002.

Amended proposal for a Directive of the European Parliament and Council on the approximation of the laws of Member States relating to food supplements. [7340/2001](#), COM(2001)159

Proposal for a Directive of the European Parliament and Council on the approximation of the laws of Member States relating to food supplements. [8525/2000](#), COM(2000)222

For additional relevant documents;
European Parliament [Legislative Observatory](#)
European Commission [PreLex](#)

UK scrutiny

House of Commons – European Scrutiny Committee
Twenty-Ninth report, 2001-02, 15 May 2002, [HC 152-xxix](#)

House of Commons – European Scrutiny Committee
Fourth report, 2001-02, 7 November 2001, [HC152-iv](#)

House of Commons – European Scrutiny Committee
Eighth report, 2000-01, 14 March 2001, [HC 28-viii](#)

House of Commons – European Scrutiny Committee
Twenty-Fourth report, 1999-2000, 12 July 2000, [HC 23-xxiv](#)

House of Lords – European Union Committee
7340/2001 cleared in Sub-Committee D on 15 May 2002

House of Lords – European Union Committee
8525/2000 cleared in Sub-Committee D on 18 July 2000

Implementation in the UK

Food Supplements (England) Regulations 2003, [SI 2003/1387](#)
Food Supplements (England) (Amendment) Regulations 2007, [SI 2007/330](#)

Food Supplements (Scotland) Regulations 2003, [SSI 2003/278](#)
Food Supplements (Scotland) Amendment Regulations 2007, [SSI 2007/78](#)

Food Supplements (Wales) Regulations 2003, [WSI 2003/1719](#), W186
Food Supplements (Wales) (Amendment) Regulations 2007, [WSI 2007/1076](#), W114

Food Supplements Regulations (Northern Ireland) 2003, [SR2003/273](#)
Food Supplements (Amendment) Regulations (Northern Ireland) 2007, [SR2007/116](#)

2 Selected European Commission documents

Report from the Commission to the Council and the European Parliament on the use of substances other than vitamins and minerals in food supplements. [17140/2008](#), COM(2008)824

Use of substances with nutritional or physiological effect other than vitamins and minerals in food supplements. European Commission, Directorate General Health and Consumers commissioned study. European Advisory Services (EAS), [March 2007](#).

Discussion Paper on the setting of maximum and minimum amounts for vitamins and minerals in foodstuffs. European Commission, Health and Consumer Protection Directorate-General, [June 2006](#).

UK scrutiny and documents

House of Commons – European Scrutiny Committee
Sixth report, 2008-09, 28 January 2009, [HC 19-v](#)

[UK Government response](#) to the European Commission's discussion paper on the setting of maximum and minimum amounts for vitamins and minerals in foodstuffs. 2006.

3 Selected European Court of Justice case law

Solgar Vitamin's France and others v Ministry of the Economy, Finance and Employment and others, [2010], [Case C-446/08](#), Judgment given 29 April 2010.

Related material;

- Opinion of the Advocate General, [Case C-446/08](#), 17 December 2009.

Alliance for Natural Health and Nutri-Link Ltd (C-154/04) v Secretary of State for Health, and National Association of Health Stores and Health Food Manufacturers Ltd (C-155/04) v Secretary of State for Health and National Assembly for Wales, [2005], [Cases C-154/04 and C-155/04](#), Judgment given 12 July 2005

Related material;

- Opinion of the Advocate General, [Cases C-154/04 and C-155/04](#), 5 April 2005.
- Food Supplements Directive: European Court of Justice rules in favour of the Commission, [Press Release IP/05/916](#), 12 July 2005

4 UK Parliament – recent activity

Parliamentary Questions

Austin Mitchell: To ask the Secretary of State for Foreign and Commonwealth Affairs what steps the UK Permanent Representation to the European Union is taking to ensure that the Government's objectives for the setting of maximum permitted levels for vitamins and minerals under the provisions of article 5 of the EU food supplements directive are met. [26048]

Anne Milton: I have been asked to reply.

I wrote to European Commissioner John Dalli in October to raise industry concerns and I met with him on 19 November to discuss this issue. The Commissioner recognises the concerns raised and has provided reassurance that the levels will be set based on risk assessment and potential harm and take account the concerns expressed by all interested parties. No further meetings are planned at this stage.

The Department works closely with the United Kingdom Permanent Representation to secure the UK's objectives in negotiations. However, the European Commission has yet to publish its proposal for maximum levels and discussions are not expected to resume until spring 2011.

HC Deb 25 November 2010, [519 c383W](#)

Rosie Cooper: To ask the Secretary of State for Health (1) when Ministers in his Department next plan to visit Jersey to discuss the implementation of the EU Food Supplements Directive and the Nutrition and Health Claims Regulations; [23565]

(2) what recent discussions he has had with representatives of the governments of (a) Jersey and (b) Guernsey on the implementation of the EU Food Supplements Directive and the Nutrition and Health Claims Regulations in their states; whether he has received an implementation timetable from (i) Jersey and (ii) Guernsey; and if he will make a statement. [23566]

Anne Milton: Policy responsibility for the Crown Dependencies lies with the Ministry of Justice. I understand that my noble Friend the Minister of State for Justice (Lord McNally) raised the implementation of the Food Supplements Directive and the Nutrition and Health Claims Regulation with the Guernsey authorities, during his visit to the Island on 24 September 2010 and expects to raise the issue with the Jersey authorities in the course of his forthcoming visit there, as indicated in the answer given on 1 November 2010, *Official Report*, column 508W.

Health Ministers have not had discussions with the authorities in Jersey and Guernsey and do not have any plans to visit Jersey at this time.

Departmental officials have had discussions with a range of groups to help progress this issue, including the food supplements industry in the United Kingdom, the Ministry of Justice, HM Treasury, HM Revenue and Customs and the Governments of Jersey and Guernsey.

HC Deb 15 November 2010, [518 c623W](#)

Claire Perry: To ask the Secretary of State for Health what his policy is on (a) food supplements and (b) implementation of the EU Food Supplements Directive. [20815]

Anne Milton: The Government believe that any regulation for food supplements should be based on safety and consumers having the right to make an informed choice. The European Food Supplements Directive was implemented in England in 2003 and came into force in 2005. The legislation contains a requirement to set maximum levels for vitamins and minerals in food supplements on the basis of science and safety. Discussions on this are expected to restart in 2011 and any proposal would need to be agreed by a majority of member states before implementation.

HC Deb 2 November 2010, [517 c771W](#)

Lord Pearson of Rannoch: To ask Her Majesty's Government what is their assessment of the conclusion of the Health Food Manufacturers' Association that sales and jobs in health food stores are at risk from European Union legislation.[HL1885]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Health Food Manufacturers' Association carried out an assessment in 2009 of their members' views on the impact of setting maximum levels for vitamins and minerals in food supplements, according to provisions of Article 5 of the EU food supplements directive. The European Commission has not proposed any maximum levels as yet and has indicated that discussions will continue at European Union working group level later in 2010. It is not currently possible to assess the actual implications for industry of setting maximum permitted levels for vitamins and minerals. An impact assessment, which will include economic impact to United Kingdom businesses, will be completed once the European Commission's draft proposals are published. The impact assessment will form part of a public consultation on the proposals.

HL Deb 27 September 2010, [720 c448WA](#)

Robert Halfon: To ask the Secretary of State for Health (1) who has attended each meeting at EU level to discuss European legislation on food supplements in the last 24 months; what reports he has received on each such meeting; what decisions he has taken as a result of those reports; and if he will make a statement; [3702]

(2) what criteria he used in deciding which officials in his Department would undertake negotiations in the EU on maximum permitted levels for vitamins and minerals in food supplements; what technical expertise is available to those officials; and if he will make a statement; [3703]

(3) what information he has on the likely timetable for the publication by the European Commission of proposals for maximum permitted levels for vitamins and minerals in food supplements under the provisions of Article 5 of the Food Supplements Directive; and what assessment he has made of the likely economic effects of implementation of those levels on businesses in (a) Harlow, (b) Essex and (c) the UK. [3704]

Anne Milton: Food Standards Agency (FSA) officials have attended each meeting at the EU level to discuss European legislation on food supplements in the last 24 months. There have been no European Union level meetings on this subject since this Government was formed and therefore no reports have been received.

A team of FSA officials are responsible for this issue. While officials at grade 7 and above in seniority will normally represent the United Kingdom in EU level discussions, the FSA deploys staff resources flexibly, using to the best effect the available skills and expertise, to ensure that the UK is best able to deliver its objectives. The FSA team includes officials with relevant scientific qualifications and expertise. Additional technical expertise is available from independent scientific experts and food supplement industry experts as necessary.

The European Commission has indicated that discussions will continue at working group level later in 2010. A date has not been set for publication by the European Commission of proposals for maximum permitted levels for vitamins and minerals in food supplements under the provisions of article 5 of the food supplements directive. An impact assessment is being prepared according to cabinet office guidelines, which will include economic impact to UK businesses; the assessment will be completed when the maximum European Commission's proposal on permitted levels for vitamins

and minerals is published. The impact assessment is made at the UK level and does not consider individual counties or towns separately. The impact assessment will form part of a public consultation on the proposals.

HC Deb 24 June 2010, [512 c325-6W](#)

Early Day Motions

[EDM 1354 2010-11](#)

26 January 2011

Food Supplements Directive (No.2)

That this House congratulates Consumers for Health Choice on its sustained campaign over many years to defend the access of Harlow consumers and consumers across the UK to safe and popular higher potency vitamin and mineral food supplements; understands that the European Commission may in 2011 take forward the process of setting maximum permitted levels for nutrients in supplements under the provisions of Article 5 of the Food Supplements Directive; observes that a restrictive interpretation of this legislation could threaten the continued availability of a wide range of safe dietary supplements, lead to the closure of 700 independent health food retailers and the loss of 4,000 UK jobs; encourages Ministers to do all they can to defend safe and legal products currently on the UK market by engaging robustly with Commissioners and EU officials and by building alliances with other member state governments; reinforces its implacable opposition to the setting of unnecessary restrictive maximum permitted levels for nutrients in such supplements; and reaffirms its view that the rights of consumers to access safe products of their choice should not be sacrificed on the altar of market harmonisation.

[EDM 664 2010-11](#)

6 September 2010

Food Supplements and competition from the Channel Islands

That this House welcomes the progress made by the governments of Guernsey and Jersey in addressing unfair and illegal competition in the trade in food supplements and herbal remedies from the Channel Islands; hopes that priority will now be given by the Islands' governments to the implementation and enforcement of the Food Supplements Directive, the Nutrition and Health Claim Regulation and the Medicines Directive; further welcomes the assurances given by those governments that they will fully implement that legislation; further hopes that the new UK Government will continue to engage in addressing these issues and will provide the Channel Islands' governments with support and practical assistance; remains concerned that businesses from the Channel Islands continue to market directly to the UK mainland products which contain illegal ingredients or which are promoted using illegal claims thus jeopardising consumer safety; observes that this situation will not be resolved as long as the required food legislation is not fully implemented and enforced in either Guernsey or Jersey; and calls on the Medicines and Healthcare Products Regulatory Agency, Food Standards Agency, Royal Mail, Advertising Standards Authority, and trading standards officers to continue actively to engage with the authorities in the Channel Islands to secure the effective implementation of the necessary legislation without further delay.

[EDM 146 2010-11](#)

3 June 2010

Food Supplements Directive

That this House notes the setting of maximum permitted levels for vitamins and minerals in food supplements under the provisions of Article 5 of the Food Supplements Directive remains work in progress on the part of the European Commission; observes that millions of United Kingdom consumers have registered with their Members of Parliament their deep

concern about the threat to the continued availability of many safe and popular higher potency supplements; further notes that industry has calculated that a restrictive interpretation of the legislation could lead to the closure of 700 health food stores and the loss of 4,000 jobs in the sector; further notes that the policy of the Conservative Party in the run up to the General Election was firm opposition to this measure and that of the Liberal Democrat Shadow Secretary of State was strong support for the freedom of consumers to choose; and looks to the Ministers of the new Coalition Government to honour the commitments of their parties and ensure that no food supplements are removed from the UK market as a result of this burdensome measure.

5 Related Library Research Papers and Standard Notes

[SN/SC/4152](#), 17 January 2011, EU Food Supplements Directive

[SN/SC/3642](#), 23 May 2005, EC Directive on Food Supplements

6 Internet links

- European Commission, Health and Consumers, Food and Feed Safety, [Food Supplements](#).
- Food Standards Agency, [Food Supplements](#).