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# *Legal Alert*

## *New EU Regulation abolishes the concept of “dietetic foods”*

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After the European Commission proposal for revisions in the EU legislation regarding foodstuffs for particular nutritional uses, on 12 June 2013, a new Regulation (EU) No 609/2013 of the European Parliament and of the Council on Food Intended for Infants and Young Children, Food for Special Medical Purposes and Total Diet Replacement for Weight Control was adopted (the Regulation). The Regulation repeals the existing legislation that sets the framework for these products (Directive 2009/39/EC) and abolishes the concept of 'dietetic foods'.

The new Regulation provides for explicit general compositional and information requirements for the following categories of foods: 1) infant formulae and follow-on formulae; 2) processed cereal based foods and other baby foods; 3) food for special medical purposes and 4) total diet replacement for weight control. Foods from the said categories can be placed on the market if they meet the requirements of the Regulation.

Any other categories of foods which were covered by the framework Directive 2009/39/EC and other EU acts on foods for particular nutritional uses remain outside the scope of the Regulation and shall be subject to the provisions of the other relevant acts (such as Regulation (EC) No 1924/2006 on nutrition and health claims made on food, Regulation (EC) No 1925/2006 on the addition of vitamins and minerals and of certain other substances to food, Directive 2002/46/EC on food supplements etc.). This means that any claims for weight reduction made in terms of foods which do not replace the entire daily meal will have to be scientifically substantiated under the terms and conditions of Regulation (EC) No 1924/2006 on nutrition and health claims made on food in order to be legally used on such foods' labels.

Subject to observing the rules of Regulation (EC) No 1924/2006 will be also claims made with respect to foods intended for people suffering from diabetes (i.e. there will be no more special requirements for such foods and no particular provisions for their composition and labelling). The reason is that according to a Commission report there is no scientific basis on which to develop specific compositional requirements for this food group. People with diabetes should be able to meet their dietary needs by choosing an appropriate diet made of food intended for the general population.

The Regulation also establishes an exhaustive EU list of certain substances (e.g. vitamins, minerals, amino-acids) that can be added to the foods covered by the Regulation. This EU list consolidates three lists currently included into different pieces of legislation on dietetic foods.

The adoption of the Regulation was motivated with the current discrepancy between the scientific concept of dietetic food (food intended to meet particular nutritional requirements of specific groups of population) and the market reality. Currently, according to the European Commission, consumers' are confused and even misled in terms of the actual characteristics of the food they buy. Further, the current complex regulation on dietetic foods appears to be difficult to apply. Clearer rules are expected to be better enforced by national authorities and to lead to overall increase in consumer protection.

The Regulation will apply from 20 July 2016. Over the next two years the Commission will adopt specific rules for the different categories of foods, covered by the Regulation via delegated acts. Foods, labelled before 20 July 2016 can be sold till exhausting of stocks.

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For additional information or assistance in connection with the aforesaid please contact.

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