
STATUTORY INSTRUMENTS

2012 No. 1198 (W.148)

FOOD, WALES

**The Food Additives (Wales) (Amendment) and the Extraction
Solvents in Food (Amendment) (Wales) Regulations 2012**

<i>Made</i>	- - - -	27 April 2012
<i>Laid before the National Assembly for Wales</i>	- -	2 May 2012
<i>Coming into force</i>	- -	23 May 2012

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a), (c) and (f), 17(1) and (2) and 48(1) of the Food Safety Act 1990⁽¹⁾ and now vested in them⁽²⁾, as read with paragraph 1A of Schedule 2 to the European Communities Act 1972⁽³⁾.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Welsh Ministers that it is expedient for references to an Annex to an EU instrument specified in regulation 2(3) to be construed as references to that Annex as amended from time to time.

In accordance with section 48(4A) of the Food Safety Act 1990, they have had regard to relevant advice given by the Food Standards Agency.

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⁽⁴⁾, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

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- (1) 1990 c. 16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c. 28), (“the 1999 Act”). Section 17 was also amended by paragraph 8 of Schedule 5 to the 1999 Act and by S.I. 2007/1388. Section 48 was also amended by S.I. 2004/2990. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c. 40), Schedule 6 to the 1999 Act, S.I. 2004/2990 and S.I. 2004/3279.
- (2) Those functions, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c. 32).
- (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) and amended by S.I. 2007/1388 and Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (2008 c. 7).
- (4) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission 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/EC 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).

Title, application and commencement

1.—(1) The title of these Regulations is the Food Additives (Wales) (Amendment) and the Extraction Solvents in Food (Amendment) (Wales) Regulations 2012.

(2) These Regulations apply in relation to Wales and come into force on 23 May 2012.

Amendment of the Food Additives (Wales) Regulations 2009

2.—(1) The Food Additives (Wales) Regulations 2009(5) are amended in accordance with paragraphs (2) to (5).

(2) In paragraph (1) of regulation 2 (interpretation)—

(a) for the definition of “permitted colour” substitute the following definition—

““permitted colour” (*“lliw a ganiateir”*) means—

- (a) before 1 December 2012, any colour listed in Annex I to Directive 94/36 which satisfies the specific purity criteria for that colour set out in the Annex to Directive 08/128;
- (b) on or after 1 December 2012, any colour listed in Annex I to Directive 94/36 which satisfies the specific purity criteria for that colour set out in the Annex to Regulation 231/2012;”;

(b) for the definition of “permitted sweetener” substitute the following definition—

““permitted sweetener” (*“melysydd a ganiateir”*) means—

- (a) before 1 December 2012—
 - (i) any sweetener specified in the second column of the Annex to Directive 94/35 which satisfies the specific purity criteria for that sweetener set out in Annex I to Directive 08/60; or
 - (ii) in the case of E960 steviol glycosides, a sweetener which satisfies the purity criteria for that sweetener set out in the Annex to Regulation 231/2012;
- (b) on or after 1 December 2012—
 - (i) any sweetener specified in the second column of the Annex to Directive 94/35; or
 - (ii) E960 steviol glycosides
which satisfies the specific purity criteria for that sweetener set out in the Annex to Regulation 231/2012;”;

(c) for the definition of “purity criteria” substitute the following definition—

““purity criteria” (*“meini prawf purdeb”*), in relation to a miscellaneous additive, means—

- (a) before 1 December 2012, the purity criteria set out in relation to that additive in Annex I to Directive 08/84 or, in the case of E1205 basic methacrylate copolymer, in the Annex to Regulation 231/2012;
- (b) on or after 1 December 2012, the purity criteria set out in relation to that additive in the Annex to Regulation 231/2012;”;

(d) at the end of the definition of “Regulation 1333/2008” insert “as read with Regulation 231/2012 ”; and

(e) after the definition of “Regulation 1333/2008” insert the following definitions—

(5) S.I. 2009/3378 (W.300). These Regulations have been amended by S.I. 2011/655 (W.93) and S.I. 2011/1450 (W.172).

““Regulation 1129/2011” (“*Rheoliad 1129/2011*”) means Commission Regulation (EU) No. 1129/2011 amending Annex II to Regulation (EC) No. 1333/2008 of the European Parliament and of the Council by establishing a Union list of food additives, as read with Commission Regulation (EU) No. 1131/2011 amending Annex II to Regulation (EC) No. 1333/2008 of the European Parliament and of the Council with regard to steviol glycosides;

“Regulation 1130/2011” (“*Rheoliad 1130/2011*”) means Commission Regulation (EU) No. 1130/2011 amending Annex III to Regulation (EC) No. 1333/2008 of the European Parliament and of the Council on food additives by establishing a Union list of food additives approved for use in food additives, food enzymes, food flavourings and nutrients;

“Regulation 231/2012” (“*Rheoliad 231/2012*”) means Commission Regulation (EU) No. 231/2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council;”.

(3) For paragraph (6) of regulation 2, substitute the following—

“(6) The EU instruments are Directive 94/35, Directive 95/2, Regulation 1333/2008 and Regulation 231/2012.”

(4) In regulation 14(2) (offences and penalties)—

(a) after the expression “Article 34 of Regulation 1333/2008,” add “Article 2 of Regulation 1129/2011 and Article 2 of Regulation 1130/2011,”; and

(b) omit sub-paragraphs (b) and (c).

(5) In the table in the Schedule (specified Regulation 1333/2008 provisions), immediately after the entries relating to Article 4.1 insert the following entries—

“Article 4.2 (as read with Articles 12, 13.2 and 18.3)	Requirement that only food additives included in the list in Annex III to Regulation 1333/2008 may be used in food additives, food enzymes, food flavourings and nutrients and under the conditions of use specified in that Annex.”
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Amendment of the Extraction Solvents in Food Regulations 1993

3.—(1) The Extraction Solvents in Food Regulations 1993(6) are amended in relation to Wales in accordance with paragraph (2).

(2) In Schedule 1 Part I (permitted extraction solvents) as entry number 22 in Column 1 add “Dimethyl ether”.

27 April 2012

Lesley Griffiths
Minister for Health and Social Services, one of
the Welsh Ministers

(6) S.I. 1993/1658. These Regulations have been amended by S.I. 1995/1440, S.I. 1998/2257 and, in relation to Wales, by S.I. 2005/3254 (W.247) and S.I. 2011/1849 (W.199).

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations make certain amendments to the Food Additives (Wales) Regulations 2009 (S.I.2009/3378 (W.300)) (“the 2009 Regulations”) in order to provide for the execution and enforcement in Wales of—

- (a) Commission Regulation (EU) No. 1129/2011 amending Annex II to Regulation (EC) No. 1333/2008 of the European Parliament and of the Council by establishing a Union list of food additives (OJ No. L295, 12.11.2011, p.1) (“Regulation 1129/2011”);
- (b) Commission Regulation (EU) No. 1130/2011 amending Annex III to Regulation (EC) No. 1333/2008 of the European Parliament and of the Council on food additives by establishing a Union list of food additives approved for use in food additives, food enzymes, food flavourings and nutrients (OJ No. L295, 12.11.2011, p.178) (“Regulation 1130/2011”); and
- (c) Commission Regulation (EU) No. 231/2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No. 1333/2008 of the European Parliament and of the Council (OJ No. L83, 22.3.2012, p.1) (“Regulation 231/2012”).

2. These Regulations amend the 2009 Regulations so as to—

- (a) amend the definitions of “permitted colour”, “permitted sweetener” and “purity criteria” to refer to Regulation 231/2012 (*regulation 2(2)(a), (b) and (c)*);
- (b) extend the definition of Regulation 1333/2008 to include reference to Regulation 231/2012 (*regulation 2(2)(d)*);
- (c) insert definitions of the three EU Regulations mentioned in paragraph 1 (*regulation 2(2)(e)*);
- (d) include Regulation 231/2012 in the list of EU instruments to which ambulatory reference is made (*regulation 2(3)*);
- (e) include reference to Regulations 1129/2011 and 1130/2011 in regulation 14 (*regulation 2(4)(a)*);
- (f) omit references in regulation 14 to Article 4.2 of Regulation 1333/2008 (*regulation 2(4)(b)*); and
- (g) insert reference to Article 4.2 in the Schedule of specified Regulation 1333/2008 provisions (*regulation 2(5)*).

3. These Regulations also make an amendment to the Extraction Solvents in Food Regulations 1993 (S.I. 1993/1658) in order to rectify an omission from the Extraction Solvents in Food (Amendment) (Wales) Regulations 2011 (S.I. 2011/1849 (W.199)) (*regulation 3*).

4. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.