

Government Response: The Food Additives, Food Flavourings, and Novel Foods (Authorisations) and Food and Feed (Miscellaneous Amendments) (Wales) Regulations 2023

Technical Scrutiny point 1: The Government accepts the reporting point however does not consider the missing footnote text will cause substantive confusion. The text of footnote (1) is consistent throughout Part E of Annex 2 to EUR 2008/1333, so it will be evident to the reader of the legislation what the footnote reference signifies.

The Government proposes to make the correction within the next food additive authorisation statutory instrument amending EUR 2008/1333. We anticipate this will be taken forward in the first quarter of 2024.

Technical Scrutiny point 2: The second entry for E 960 Steviol glycosides (now E 960a and E 960c) in category 05.2 covers all sandwich spreads that are based on cocoa, milk, dried fruit or fat (or any combination of these things).

The Government notes there is an inconsistency between the wording of this entry and other entries in 05.2. The Government further notes that there are existing wider inconsistencies in the wording of the other entries within category 05.2, and across the other categories of Part E of Annex 2 to EUR 2008/1333 as it was retained.

The Explanatory Notes to this instrument and the accompanying Explanatory Memorandum confirm that the purpose of Part 2 is give effect to the authorisation of a new method of production of an existing additive. The existing entries for E 960 steviol glycosides in Part E of Annex 2 to EUR 2008/1333 are being restated against the revised E-numbers 960a and E 960c. The Government considers it is clear there is no intention that any change is being made to the food categories for which the additive is permitted or to any of the listed restrictions or exceptions.

The Government does not consider that the inconsistencies between the entries give rise to scope for substantive confusion. The correct intended scope of the entries (including the specific entry in question) is well established and commonly understood by stakeholders.

In relation to the specific entry in question, the Government proposes to make a further clarification within the next food additive authorisation statutory instrument amending EUR 2008/1333.

Technical Scrutiny point 3: In Part E of Annex 2 to EUR 2008/1333, the table entries for food additives E 960a and E960c in categories 11.4.1, 11.4.2 and 11.4.3 do not contain maximum numerical limits, but are to be applied *quantum satis*. “*Quantum satis*” is defined in Article 3(2)(h) of EUR 2008/1333. It is therefore not necessary to include the footnote number (1). That footnote specifies that additives

can be added individually or in combination, and so is relevant only where there is a fixed maximum numerical level prescribed.

The footnote reference (1) is superfluous within any existing entry covering multiple additives where use is permitted *quantum satis*. The Government is satisfied that the inconsistent use of the footnote reference in the existing entries of Part E of Annex 2 will not give rise to interpretation difficulties for the affected entries as the operation of the principle of *quantum satis* is clear.

Technical Scrutiny point 4: The Government does not consider that the point identifies a defect in the instrument or a failure to fulfil a statutory requirement. The point references Article 4 of Commission Regulation (EU) No 231/2012, which is the entry into force provision, and which became effectively spent when the Regulation came fully applicable in December 2012. The Government does not consider that it is necessary for this instrument to seek to amend Article 4.

Technical Scrutiny point 5: In the Annex to EUR 2017/2470, each entry in Table 1 has a corresponding specification in Table 2. The entries in Table 1 relate to the corresponding specifications in Table 2 in the same order as written. The Government does not consider there is scope for confusion.

Details of authorised novel foods are further accessible by reference to the register of novel foods. This will be updated once Part 4 of this instrument comes into force. The register is publicly accessible at https://data.food.gov.uk/regulated-products/novel_authorisations.