

SL(6)491 – The Food Additives and Novel Foods (Authorisations and Miscellaneous Amendments) and Food Flavourings (Removal of Authorisations) (Wales) Regulations 2024

Background and Purpose

These Regulations make provision, in relation to Wales, on regulated food product authorisations. Part 2 of these Regulations (regulations 2 and 3 and Schedules 1 to 3) is made in exercise of powers in Regulation (EC) No 1331/2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings (EUR 2008/1331). Regulation 2 and Schedule 1 update, in relation to Wales, the domestic list of food additives approved for use in foods in Annex 2 of Regulation (EC) No 1333/2008 on food additives (EUR 2008/1333). Regulation 3 and Schedules 2 and 3 amend, in relation to Wales, Commission Regulation (EU) No 231/2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 (EUR 2012/231).

The amendments made in Part 2 of these Regulations provide for—

- the authorisation, in relation to Wales, of the placing on the market and use of the food additive E 960b steviol glycosides from fermentation (*Yarrowia lipolytica*);
- the authorisation, in relation to Wales, of a new production method for an existing authorised additive: E 960c enzymatically produced steviol glycosides. The specification for the existing production method in the Annex to EUR 2012/231 is renumbered as E 960c(i). The specification for the new production method is inserted as “E 960c(ii) rebaudioside M, AM and D produced via enzymatic conversion of highly purified steviol glycosides from *Stevia* leaf extracts”;
- the authorisation, in relation to Wales, of a new use (edible ices) for the food additive E 476 polyglycerol polyricinoleate, and an amendment to an existing authorised use (sauces);
- the introduction of a maximum residue limit of 0.1 mg/kg for residues of ethylene oxide applying to all authorised food additives;
- minor miscellaneous corrections to Annex 2 to EUR 2008/1333.

Part 3 of these Regulations is also made in exercise of powers in EUR 2008/1331. Regulation 4 removes, in relation to Wales, 22 flavouring substances from the domestic list of authorised flavouring substances in Annex 1 to Regulation (EC) No 1334/2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods (EUR 2008/1334). Regulation 5 makes transitional provision to allow existing products containing these substances to continue to be marketed and used until their date of minimum durability (‘best before’ date) or ‘use by’ date.



Part 4 of these Regulations (regulation 6 and Schedules 4 to 8) is made in exercise of powers in Regulation (EU) 2015/2283 on novel foods (EUR 2015/2283). Part 4 updates, in relation to Wales, the list of authorised novel foods in the Annex to Commission Implementing Regulation (EU) 2017/2470 establishing the Union list of novel foods (EUR 2017/2470) –

- Schedule 4 inserts a new entry, authorising the placing on the market of partially hydrolysed protein from spent barley (*Hordeum vulgare*) and rice (*Oryza sativa*) as a novel food for use in the specified food categories.
- Schedule 5 inserts a new entry, authorising the placing on the market of cetylated fatty acids as a novel food for use in food supplements for adults only.
- Schedule 6 inserts a new entry, authorising the placing on the market of 3-fucosyllactose (3-FL) (from a strain of *Escherichia coli* K-12 DH1) as a novel food for use in the specified food categories.
- Schedule 7 inserts a new entry, authorising the placing on the market of lacto-Nfucopentaose I (LNFP-I) and 2'-fucosyllactose (2'-FL) mixture as a novel food for use in the specified food categories.
- Schedule 8 corrects errors in existing entries— — In Table 1 only, the existing entry for “bovine milk basic whey protein isolate” is replaced to address formatting errors in the existing entry. — In Table 2 only, the specification for Xylo-oligosaccharides is amended to add the parameter for “Dry material (%)”, which was missing from the existing entry.

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts;

In Regulation 3(2), in the Welsh text, in the description of the amendment, the word “for” in the phrase “**for** *Note: Ethylene.... food additives* substitute—” has been translated as “ar gyfer”. However, “yn lle” is the standardised translation of “for” noted in the Welsh Government’s Legislative Translation Unit’s Style Guide when used in the phrase “for X substitute Y”. It also means that the description in the Welsh text of the amendment in this regulation is inconsistent with that found in other similar amendments in these Regulations where the standardised phrase has been used.



Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd;

We note that these Regulations make minor corrections within existing legislation for authorised novel foods and food additives. In particular, we note the following paragraph in the Explanatory Memorandum:

“This instrument makes minor corrections within the existing legislation for authorised novel foods and food additives - including corrections we committed to making in the Welsh Government’s response to technical scrutiny points raised by the Legislation, Justice and Constitution Committee in their report on the Food Additives, Food Flavourings, and Novel Foods (Authorisations) and Food and Feed (Miscellaneous Amendments) (Wales) Regulations 2023. These amendments can be found in Regulation 2 and Schedule 1, paragraph 6 of this Instrument.”

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

18 June 2024

