



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **Food Additives, Flavourings, Enzymes and Extraction Solvents  
(Amendment etc.) (EU Exit) Regulations 2019**

**DATE**            **6 February 2019**

**BY**                **Rebecca Evans AM, Minister for Finance and Trefnydd**

### **Food Additives, Flavourings, Enzymes and Extraction Solvents (Amendment etc.) (EU Exit) Regulations 2019**

#### **The retained EU law which is being amended**

- Regulation (EC) No. 2065/2003 on smoke flavourings used or intended for use in or on foods
- Regulation (EC) No. 627/2006 implementing Regulation (EC) No. 2065/2003 as regards quality criteria for validated analytical methods for sampling, identification and characterisation of primary smoke products
- Regulation (EU) No. 1321/2013 establishing the Union list of authorised smoke flavouring primary products for use as such in or on foods and/or for the production of derived smoke flavourings
- Regulation (EC) No. 1331/2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings
- Regulation (EU) No. 234/2011 implementing Regulation (EC) No. 1331/2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings
- Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes
- Regulation (EC) No. 1333/2008 on food additives
- Regulation (EU) No. 231/2012 laying down specifications for food additives listed in Annexes 2 and 3 to Regulation (EC) No. 1333/2008
- Regulation (EU) No. 257/2010 setting up a programme for the re-evaluation of approved food additives in accordance with Regulation (EC) No. 1333/2008
- Regulation (EC) No. 1334/2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods
- Regulation (EU) No. 872/2012 adopting the list of flavouring substances provided for by Regulation (EC) No. 2232/96 introducing it in Annex 1 to Regulation (EC) No. 1334/2008

- Regulation (EU) No. 873/2012 on transitional measures concerning the Union list of flavourings and source materials set out in Annex 1 to Regulation (EC) No. 1334/2008

#### **The retained EU law which is being revoked**

- Regulation (EU) No. 257/2010 setting up a programme for the re-evaluation of approved food additives in accordance with Regulation (EC) No. 1333/2008

#### **Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence**

This SI will enhance the Welsh Ministers' executive powers. It will transfer the European Commission's current powers, including regulation-making functions, to the Welsh Ministers in relation to Wales. This will enable Welsh Ministers to, among other things:

- authorise food additives, flavourings and enzymes;
- amend labelling requirements for these substances;
- amend non-essential elements of the retained EU law (e.g. in response to new scientific developments).

The Welsh Ministers' regulations will be subject to annulment by resolution of the National Assembly. The SI will not have any impact on the Assembly's legislative competence.

#### **The purpose of the amendments**

The Regulations will make technical fixes such as removing references to EU institutions and other Member States, and will replace 'Union lists' with 'domestic lists' to ensure the law remains operable after EU Exit. It will also amend the provision which currently requires containers for additives, flavourings etc. to be labelled in 'an official language of a Member State' so that, post-exit, the label must be in English, or English and Welsh.

As a more substantive change, the correcting Regulations will, in relation to Wales, transfer the risk assessment responsibilities carried out by European Food Safety Authority (EFSA) to the FSA. The FSA will therefore be responsible for, among other things, undertaking risk assessments for any applications for products' authorisation as food additives, flavourings etc. and will advise the Welsh Ministers on the basis of those risk assessments.

The Regulations will also transfer the Commission's functions, including regulation-making functions under the directly applicable EU law, to the Welsh Ministers in Wales.

In particular, the Regulations will confer powers on the Welsh Ministers to:

- Decide whether to approve applications for food additives, food enzymes, food flavourings (including smoke flavourings) to be placed on the market (including reauthorisations and modifications) in relation to Wales, as well as to prescribe implementing measures for their authorisations.
- Amend labelling requirements for these substances.
- Make regulations to amend non-essential elements of the retained EU law, for example to take account of new advances in science.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/rUYmWnoG>

**Why consent was given**

There is no divergence between the Welsh Government/FSA Wales and the UK Government (FSA UK) on the policy for the corrections. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, FSA Wales/the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.