
STATUTORY INSTRUMENTS

2011 No. 1450 (W.172)

FOOD, WALES

**The Food Additives (Wales)
(Amendment) (No. 2) Regulations 2011**

Made - - - - 8 June 2011
*Laid before the National
Assembly for Wales* - - 9 June 2011
Coming into force in accordance with regulation 3

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a) and (f), 17(1) and 48(1) of the Food Safety Act 1990⁽¹⁾ which are now vested in them⁽²⁾.

In accordance with section 48(4A) of that Act, 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⁽³⁾, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Title

1. The title of these Regulations is The Food Additives (Wales) (Amendment) (No.2) Regulations 2011.

(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 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) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act and are now vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c. 32).

(3) 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).

Amendment of the Food Additives (Wales) Regulations 2009

2.—(1) The Food Additives (Wales) Regulations 2009⁽⁴⁾ are amended in accordance with paragraph (2).

(2) In paragraph (1) of regulation 2 (interpretation), at the end of the definition of “Directive 08/128” add the words “as amended by Commission Directive 2011/3/EU amending Directive 2008/128/EC laying down specific purity criteria on colours for use in foodstuffs;”.

Commencement

3.—(1) These Regulations come into force —

- (a) as regards the entries for synthetic lycopene and lycopene from *Blakeslea trispora* in sections (i) and (iii) respectively of the Annex to Directive 2011/3/EU, on 1 July 2011; and
- (b) as regards the entries for lycopene from red tomatoes in section (ii) of that Annex, on 1 September 2011.

(2) In this regulation “Directive 2011/3/EU” means Commission Directive 2011/3/EU amending Directive 2008/128/EC laying down specific purity criteria on colours for use in foodstuffs⁽⁵⁾.

8 June 2011

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

(4) S.I. 2009/3378 (W.300). These Regulations were amended by S.I. 2011/655 (W.93).

(5) OJ No. L13, 18.1.2011, p.59.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement in Wales Commission Directive 2011/3/EU amending Directive [2008/128/EC](#) laying down specific purity criteria on colours for use in foodstuffs (OJ No. L13, 18.1.2011, p.59) (“the amending Directive”).
2. The amending Directive revises the purity criteria for lycopene derived from red tomatoes, and permits the use of two new sources of lycopene in accordance with prescribed purity criteria.
3. These Regulations implement the amending Directive by making an amendment to regulation 2 of the Food Additives (Wales) Regulations 2009 (S.I.2009/3378 (W.300)) so that the definition of Directive 08/128 in that regulation includes reference to the amending Directive (*regulation 2(2)*).
4. The permission to use the two new sources of lycopene (synthetic lycopene and lycopene from *Blakeslea trispora*) is brought into force earlier than the revision of existing purity criteria for lycopene from red tomatoes (*regulation 3*).
5. 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.