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WELSH STATUTORY INSTRUMENTS

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**2020 No. 257 (W. 59)**

**FOOD, WALES**

**The Addition of Vitamins, Minerals and Other  
Substances (Wales) (Amendment) Regulations 2020**

<i>Made</i>	- - - -	<i>10 March 2020</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>12 March 2020</i>
<i>Coming into force</i>	- -	<i>3 April 2020</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a) and (f), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990(1) and now vested in them(2) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(3).

The Welsh Ministers have been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of food(4). These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Welsh Ministers that it is expedient for certain references to provisions of Regulation (EC) No 2016/128(5) to be construed as references to those provisions as amended from time to time.

The Welsh Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of the Food Safety Act 1990(6).

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- (1) 1990 c. 16. Section 1(1) and (2) (meaning of “food” and other basic expressions) was substituted by S.I. 2004/2990. Section 16(1) of the Food Safety Act 1990 (“the 1990 Act”) was amended by paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) (“the 1999 Act”). Section 17 of the 1990 Act was amended by paragraphs 7, 8, and 12 of Schedule 5 to the 1999 Act and S.I. 2011/1043. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act.
  - (2) Those 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) 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 thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). Those functions are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act.
  - (3) 1972 c. 68 (“the 1972 Act”). Section 2(2) of the 1972 Act was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006. It was amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 and S.I. 2007/1388.
  - (4) S.I. 2005/1971 to which there are amendments not relevant to these Regulations.
  - (5) Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ No. L 404, 30.12.2006, p. 26), as last amended by Commission Regulation (EU) 2019/650 of 24 April 2019 amending Annex 3 to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille) (OJ No. L 110, 25.4.2019, p. 21).
  - (6) Section 48(A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

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<sup>(7)</sup>, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

### **Title and commencement**

1.—(1) The title of these Regulations is the Addition of Vitamins, Minerals and Other Substances (Wales) (Amendment) Regulations 2020.

(2) These Regulations come into force on 3 April 2020.

### **Amendment of the Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007**

2.—(1) The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007<sup>(8)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “the EC Regulation” (“*y Rheoliad CE*”) for “I or II” substitute “1, 2 or 3”.

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

(a) at the end of sub-paragraph (d) omit “and”;

(b) at the end of sub-paragraph (e) for “.” substitute “;”;

(c) after sub-paragraph (e) insert—

“(f) Article 8(2)(a)(i) (prohibition of the addition of a substance listed in Annex 3, Part A to foods or its use in the manufacture of foods);

(g) Article 8(2)(a)(ii) (prohibition of the addition of a substance listed in Annex 3, Part B to foods or its use in the manufacture of foods unless that substance is added or used in accordance with the conditions specified in that Part).”

(4) After regulation 4 insert—

#### **“Transitional provision in relation to food containing substance listed in Annex 3, Part B**

**4A.** An offence is not committed under paragraph (1) of regulation 4 by virtue of paragraph (2)(g) of that regulation in respect of the addition of a substance to, or its use in the manufacture of, any food if—

(a) the food is placed on the market before 1 April 2021; and

(b) the substance concerned falls within the entry in Annex 3, Part B relating to trans fat other than trans fat naturally occurring in fat of animal origin.”

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(7) OJ No. L 31, 1.2.2002, p.1, as last amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (OJ No. L 198, 25.7.2019, p. 241) and prospectively amended by S.I. 2019/641.

(8) S.I. 2007/1984 (W. 165), amended by S.I. 2014/2303 (W. 227) and S.I. 2018/806 (W. 162). It is prospectively amended by S.I. 2019/179 (W. 45).

10 March 2020

*Vaughan Gething*  
Minister for Health and Social Services, one of  
the Welsh Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007 (S.I. 2007/1984 (W. 165)) (“the 2007 Regulations”).

Regulation 2(1) of the 2007 Regulations is amended so that the definition of “the EC Regulation” includes a reference to Annex 3 (as it may be amended from time to time) of Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ No. L 404, 30.12.2006, p. 26), as last amended by Commission Regulation (EU) 2019/650 of 24 April 2019 amending Annex 3 to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille) (OJ No. L 110, 25.4.2019, p. 21).

Regulation 4(2) of the 2007 Regulations is amended so that it is an offence to add a substance listed in Annex 3, Part A of the EC Regulation to foods, or to use such a substance in the manufacture of foods.

Regulation 4(2) of the 2007 Regulations is further amended so that it is an offence to add a substance listed in Annex 3, Part B to the EC Regulation to foods, or to use such a substance in the manufacture of foods unless that substance is added or used in accordance with the conditions specified in that Part.

A new transitional provision (regulation 4A) is inserted into the 2007 Regulations to provide that no offence is committed in respect of any food that does not comply with the provisions of Annex 3, Part B relating to trans fat other than trans fat naturally occurring in fat of animal origin and which is placed on the market before 1 April 2021.

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.