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WELSH STATUTORY INSTRUMENTS

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**2005 No. 259 (W.25)**

**FOOD, WALES**

**The Miscellaneous Food Additives  
(Amendment) (Wales) Regulations 2005**

*Made* - - - - 8 February 2005

*Coming into force* - - 1 March 2005

The National Assembly for Wales, in exercise of the powers conferred by sections 16(1)(a) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup> and now vested in it<sup>(2)</sup>, having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency and after consultation both as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council<sup>(3)</sup> 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 and in accordance with section 48(4) and (4B) of that Act, makes the following Regulations:

**Title, commencement and application**

1. These Regulations —

- (a) may be cited as the Miscellaneous Food Additives (Amendment) (Wales) Regulations 2005;
- (b) shall come into force on 1 March 2005;
- (c) shall apply in relation to Wales only.

**Amendment of the Miscellaneous Food Additives Regulations 1995**

2. The Miscellaneous Food Additives Regulations 1995<sup>(4)</sup> is amended in accordance with regulation 3 and 4 below.

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(1) 1990 c. 16.

(2) Functions formerly exercisable by “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 Food Standards Act 1999 (1999 c. 28).

(3) OJ No. L31, 1.2.2002, p.1.

(4) S.I. 1995/3187, amended by S.I. 1997/1413, S.I.1999/1133, S.I. 2001/1440 (W.102), S.I. 2001/1787 (W.128), S.I. 2001/2679 (W.220), S.I. 2001/3909 (W.321), S.I. 2002/329 (W.42), S.I. 2002/330 (W.43), S.I. 2003/945 (W.126), S.I. 2003/3037 (W.285), S.I. 2003/3041 (W.286), S.I. 2003/3044 (W.288), S.I. 2003/3047 (W.290), S.I. 2003/3053 (W.291), S.I. 2004/553 (W.56) and S.I. 2004/554 (W.57).

3. In paragraph (1) of regulation 2 (interpretation), in the definition of “Directive 96/77/EC” for the words “and Commission Directive 2002/82/EC” substitute the following words —

“, Commission Directive 2002/82/EC(5) Commission Directive 2003/95/EC(6) and Commission Directive 2004/45/EC(7)

4. In regulation 11, after paragraph (1D), insert the following paragraph —

“(1E) In any proceedings for an offence in contravention of regulation 3(1) where it is alleged that a food additive failed to satisfy the purity criteria for that additive, it shall be a defence for the accused to show either —

(a) that the food additive concerned is E431-E436, or polyethylene glycol 6000 and the food additive or food concerned was put on the market or labelled before 1 November 2004; or

(b) that the food additive concerned is E407, E407a, E1517 or E1519 and the food additive or food concerned was put on the market or labelled before 1 April 2005;

and that that matter constituting the offence would not have constituted an offence under these Regulations if the amendments made to them by regulation 3 of the Miscellaneous Food Additives (Amendment) (Wales) Regulations 2005 had not been in force when that matter occurred.”

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8)

8 February 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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(5) OJ No. L292, 28.10.2002, p.1.

(6) OJ No. L283, 31.10.2003, p.71

(7) OJ No.L113, 20.4.2004, p.19.

(8) 1998 c. 38.

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## EXPLANATORY NOTE

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

1. These Regulations, which apply to Wales, implement Commission Directive [2003/95/EC](#) (OJ No. L283, 31.10.2003, p.71) and Commission Directive [2004/45/EC](#) (OJ No. L113, 20.4.2004, p.19), both of which amend Commission Directive [96/77/EC](#) (OJ No. L339, 30.12.1996, p.1) laying down specific purity criteria on food additives other than colours and sweeteners. Directive [96/77/EC](#) was implemented by amendment to the Miscellaneous Food Additives Regulations 1995.

2. In particular these Regulations provide for purity criteria as outlined in the Annexes to Commission Directives [2003/95/EC](#) and [2004/45/EC](#) in relation to the following additives:

E251 Sodium Nitrate

E431 Polyoxyethylene (4) Stearate

E432 Polyoxyethylene Sorbitan Monolaurate (Polysorbate 20)

E433 Polyoxyethylene Sorbitan Monooleate (Polysorbate 80)

E434 Polyoxyethylene Sorbitan Monopalmitate (Polysorbate 40)

E435 Polyoxyethylene Sorbitan Monostearate (Polysorbate 60)

E436 Polyoxyethylene Sorbitan Tristearate (Polysorbate 65)

E459 Beta-Cyclodextrin

Polyethylene Glycol 6000

E407 Carrageenan

E407a Processed Eucheuma seaweed

E907 Hydrogenated Poly-1-decene

E1517 Glycerol Diacetate

E1519 Benzyl Alcohol

3. A regulatory appraisal of these Regulations pursuant to section 65 of the Government of Wales Act 1998 together with a transposition note setting out how the main elements of the Directives [2003/95/EC](#) and [2003/45/EC](#) are transposed into domestic law have been prepared and have been placed in the library of the National Assembly for Wales. Copies may be obtained from the Food Standards Agency, 11th Floor, Southgate House, Cardiff CF10 1EW.