

Number: WG39289



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Amendment to Addition of Vitamins, Minerals and Other Substances Regulations

Consultation on a proposed amending statutory instrument to correct an omission in The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007.

Date of issue: 25 November 2019
Action required: Responses by 23 December 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

The Welsh Government is seeking views on plans to introduce domestic legislation, in the form of an amending Statutory Instrument (SI), to amend The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007 to include a provision for Article 8 on the prohibition or restriction of substances listed in Part A or B of Annex III of Regulation (EC) No 1925/2006. We are asking for stakeholders' views on the appropriateness of extending the offences and penalties in The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007 to cover Part A and B of Annex III.

How to respond

Submit your comments by 23 December 2019 in any of the following ways:

- **Via the online form**
- **Via email or post using the contact details below.**

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

Healthy and Active Branch
Public Health Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

email: **Lifestyles@gov.wales**

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data holds about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

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SUMMARY

1. [The Addition of Vitamins, Minerals and Other Substances \(Wales\) Regulations 2007](#) (“the Wales Regulations”) provides for the enforcement of [Regulation \(EC\) No 1925/2006](#) on the addition of vitamins and minerals and of certain other substances to foods “the EC Regulation”.
2. Article 8 and Annex III of the EC Regulation provide for substances that could represent a potential risk to consumers. Such substances may be:
 - Prohibited under Part A of Annex III
 - Restricted with certain conditions of use under Part B of Annex III
 - Kept under scrutiny subject to evidence of safety under Part C of Annex III.
3. Whilst we remain in the EU these provisions are directly applicable in the UK as an EU Member State. The effect of leaving the EU has no impact on the proposed amending regulations as the provisions of the EC Regulation will continue to apply throughout the UK after exit day and therefore enforcement provisions are required to be made in domestic legislation.
4. Currently, the Article 8 and Annex III provisions are not included in the offences and penalties section of the Wales Regulations. This means that there are no enforcement provisions available in domestic law in the event that a food business operator uses a prohibited substance listed in Part A of Annex III or is non-compliant with the conditions of use for substances listed in Part B of Annex III.
5. The Welsh Government is therefore consulting on the proposal to amend the Wales Regulations to include a provision for Article 8 on the prohibition or restriction of substances listed in Part A or B of Annex III. This will make it a punishable offence if a food business operator uses a prohibited substance listed in Part A or is non-compliant with the conditions of use for substances listed in Part B.
6. This is a limited technical consultation.
7. Parallel consultations will be conducted in England, Scotland and Northern Ireland.

ENFORCEMENT REGIME

8. European Regulations, such as this one, are directly applicable in UK law and are not required to be transposed into UK legislation. However, we must put in place offences linked to the Regulation and enforcement provisions and penalties associated with these offences so that the Regulation can be enforced in the UK. The Wales Regulations failed to include a provision for Article 8 and Annex III of the EC Regulation. The proposed amending regulations will extend the current enforcement regime to include the Article 8 and Annex III Part A and Part B provisions. The current enforcement regime is as follows:

“any person who contravenes or fails to comply with the provisions of the EC Regulation specified in paragraph (2) is guilty of an offence and liable —
(a) on conviction on indictment to a term of imprisonment not exceeding two years or to a fine or both;
(b) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum or both.”

EU EXIT

9. The timing of, and the effect of, the UK leaving the EU has no impact on the proposed amending regulations. The EC Regulation is currently directly applicable in all member states, including the UK, and the provisions of the EC Regulation will continue to apply after exit day. The enforcement provisions required to be made in domestic legislation would therefore be the same.

Questions

- 1. Do you agree with the proposal to amend The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007 to include, under offences and penalties a provision for article 8 and Part A and B of Annex III of the European Regulation 2006/125/EC?**

Yes/No/Don't know

Please provide a reason for your response

- 2. Do you agree that the current enforcement regime, outlined above, should be extended to this provision?**

Yes/No/Don't know

Please provide a reason for your response

- 3. Do you have an alternative proposal?**

If so, please provide details and reasons for your suggestion

- 4. We would like to know your views on the effects that these regulations will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

- 5. Please also explain how you believe the proposed regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

6. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Amendment to Addition of Vitamins, Minerals and Other Substances Regulations

Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Responses should be returned by 23 December 2019 to;

Healthy and Active Branch

Public Health Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

Or complete electronically and sent to: **Lifestyles@gov.wales**

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