

## Welsh Statutory Instrument 2003 No. 3119 (W.297)

### **The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003**

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#### STATUTORY INSTRUMENTS

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### **2003 No. 3119 (W.297)**

#### **AGRICULTURE, WALES**

### **The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003**

*Made*

*2nd December 2003*

*Coming into force*

*3rd December 2003*

The National Assembly for Wales acting in exercise of the powers conferred by sections 66(1), 74A and 84 of the Agriculture Act 1970[[1](#)] (as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000[[2](#)] and articles 2 and 6 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002[[3](#)]) and now exercisable by it in relation to Wales[[4](#)], after consultation as required by section 84(1) of that Act and 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[[5](#)], and being designated[[6](#)] for the purposes of section 2(2) of the European Communities Act 1972[[7](#)] in relation to the Common Agricultural Policy of the European Community, in exercise of the powers conferred on it by that last mentioned section (in so far as these Regulations cannot be made under the powers of the Agriculture Act 1970 specified above), makes the following Regulations:

### **Title, application and commencement**

1. - (1) These Regulations may be cited as the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2003.

(2) These Regulations shall apply to Wales only and shall come into force on 3rd December 2003.

### **Amendment of the Feeding Stuffs (Wales) Regulations 2001**

2. - (1) The Feeding Stuffs (Wales) Regulations 2001<sup>[8]</sup> shall be amended in accordance with paragraphs (2) and (3).

(2) For Part II of the Table set out in Schedule 3 (permitted additives and provisions relating to their use) there shall be substituted the Part set out in the Schedule to these Regulations.

(3) In Part IX of Schedule 3 -

(a) the following text shall be inserted immediately after the reference to Commission Regulation (EC) No. 688/2003 -

" Commission Regulation (EC) No. 871/2003 permanently authorising a new additive manganomanganic oxide in feedingstuffs<sup>17</sup>.

Commission Regulation (EC) No. 877/2003 provisionally authorising the use of the acidity regulator "Benzoic acid" in feedingstuffs<sup>18</sup>."; and

(b) the following text is inserted at the end -

" 17. OJ No. L125, 21.5.2003, p.3

18. OJ No. L126, 22.5.2005, p.24."

### **Consequential amendments to the Feeding Stuffs (Wales) Regulations 2001**

3. - (1) The Feeding Stuffs (Wales) Regulations 2001 shall be amended, insofar as they apply in relation to Wales, in accordance with paragraphs (2) and (3).

(2) For paragraph (1) of regulation 7 (limits of variation) there shall be substituted the following paragraph -

" (1) Section 74(2) shall have effect as if after the words "this Part of this Act" there were inserted the words "or the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001<sup>[9]</sup>, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001<sup>[10]</sup>, the Feeding Stuffs (Amendment) (Wales) Regulations 2002<sup>[11]</sup>, the Feeding Stuffs (Amendment) (Wales) Regulations 2003<sup>[12]</sup>, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003<sup>[13]</sup> and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003."

(3) For paragraph (1) of regulation 24 (modification of section 74A(3) of the Agriculture Act 1970) there shall be substituted the following paragraph -

" (1) For the purposes of the enforcement and administration of the provisions specified in paragraph (2) below section 74A(3) shall have effect as if for the words "regulations under subsection (1) above, or fails to comply with any other provision of the regulations," there were substituted the words "any provision specified in regulation 25(2) of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement)

(Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003."

### **Consequential amendments to the Feeding Stuffs (Sampling and Analysis) Regulations 1999**

4. The Feeding Stuffs (Sampling and Analysis) Regulations 1999[14] shall be amended in so far as they apply in relation to Wales in accordance with regulations 5 and 6.

5. In Part I of Schedule 2 (methods of analysis) in paragraph 3(e)(ii) for the expression "and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003" there shall be substituted the expression ", the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003".

6. In Part II of Schedule 3 (form of certificate of analysis) in note (11)(a) for the expression "and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003" there shall be substituted the expression ", the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003".

### **Consequential amendments to the Feeding Stuffs (Enforcement) Regulations 1999**

7. The Feeding Stuffs (Enforcement) Regulations 1999[15] shall be amended in so far as they apply in relation to Wales in accordance with regulations 8 to 11.

8. In regulation 7 (modification of the Agriculture Act 1970 for certain purposes) -

(a) for paragraph (2) there shall be substituted the following paragraph -

" (2) The purpose referred to in paragraph (1) is the enforcement and administration of -

(a) the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003, as read with Part IV of the Act; and

(b) sections 73 and 73A of the Act."; and

(b) for paragraph (4) there shall be substituted the following paragraph -

" (4) The purpose referred to in paragraph (3) is the enforcement and administration of -

(a) the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2003, as read with Part IV of the Act; and

(b) sections 73 and 73A of the Act."

9. In each of regulations 11, 11A and 11B for the expression "and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003" there shall be substituted the expression ", the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003".

10. In the modified version of subsection (8) of section 67 of the Agriculture Act 1970 which is set out in regulation 9 for the expression "and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003" there shall be substituted the expression ", the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003".

11. In regulation 10 (modification of section 76 of the Agriculture Act 1970) for the modified version of subsection (17) of section 76 of the Agriculture Act 1970 which is set out in that regulation there shall be substituted the following subsection -

" (17) In this section -

"compound feeding stuff" has the meaning given in regulation 2(1) of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003;

"controlled product" means any feeding stuff, substance or product which is subject to any of the controls contained in the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No.2) Regulations 2003, as read with this Part of this Act, or in section 73 or 73A of this Act;

"feeding stuff which is intended for a particular nutritional purpose" shall be construed in accordance with the definitions of "feeding stuff intended for a particular nutritional purpose" and "particular nutritional purpose" in regulation 2(1) of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2003;

"premises" include any land, vehicle, vessel, aircraft or hovercraft; and

"put into circulation" means sell or otherwise supply, or have in possession with a view to selling or otherwise supplying."

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[[16](#)]

*D.Elis-Thomas*

The Presiding Officer of the National Assembly

2nd December 2003

## SCHEDULE

**Regulation 2(2)**

PART SUBSTITUTED FOR PART II OF THE TABLE SET OUT IN SCHEDULE 3 TO THE FEEDING STUFFS (WALES) REGULATIONS 2001

## " PART II

**PERMITTED COLOURANT**

<i>7 Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>
<i>EEC No.</i>	<i>Name or Description</i>	<i>Chemical Formula, description</i>	<i>Kind of animal permitted</i>	<i>Maximum content (mg/kg in complete) feedingstuffs</i>	<i>Conditions</i>
	<b>1.</b> Carotenoids and xanthophylls:				
E160c	Capsanthin	C <sub>40</sub> H <sub>56</sub> O <sub>3</sub>	}	}	-
E160e	Beta-apo-8'- carotenal	C <sub>30</sub> H <sub>40</sub> O	}	}80	
E160f	Ethyl ester of beta-apo-8'- carotenoic acid	C <sub>32</sub> H <sub>44</sub> O <sub>2</sub>	}Poultry	}(alone or with the other carotenoids and xanthophylls)	
E161b	Lutein	C <sub>40</sub> H <sub>56</sub> O <sub>2</sub>	}	}	
E161c	Cryptoxanthin	C <sub>40</sub> H <sub>56</sub> O	}		
E161g	Canthaxanthin	C <sub>40</sub> H <sub>52</sub> O <sub>2</sub>	Poultry other than laying hens	25	The mixture of canthaxanthin with other carotenoids and xanthophylls is allowed provided that the total concentration of the mixture does not exceed 80 mg/kg in the complete feedingstuff

			Laying hens	8	The mixture of canthaxanthin with other carotenoids and xanthophylls is allowed provided that the total concentration of the mixture does not exceed 80 mg/kg in the complete feedingstuff
			Salmon, trout	25	Use permitted from the age of 6 months onwards. The mixture of canthaxanthin with asthaxanthin is allowed provided that the total concentration of the mixture does not exceed 100 mg/kg in the complete feedingstuff
			Dogs, cats and ornamental fish	-	-
	Canthaxanthin authorised for colouring foodstuffs by Community rules		All species or categories of animals other than poultry, salmon, trout, dogs and cats	-	Permitted in animal feedingstuffs only in products processed from: <p>(i) waste products of foodstuffs, or</p> <p>(ii) other base substances, with the exception of cereals and manioc flour, denatured by means of these agents or coloured during technical preparation to ensure the necessary identification during manufacture</p>
			Dogs and cats	-	-
			Poultry other than laying	25	Permitted in animal feedingstuffs only in products processed from:

			hens, salmon, trout		<p>(i) waste products of foodstuffs, or</p> <p>(ii) other base substances, with the exception of cereals and manioc flour, denatured by means of these agents or coloured during technical preparation to ensure the necessary identification during manufacture</p>
			Laying hens	8	<p>Permitted in animal feedingstuffs only in products processed from:</p> <p>(i) waste products of foodstuffs, or</p> <p>(ii) other base substances, with the exception of cereals and manioc flour, denatured by means of these agents or coloured during technical preparation to ensure the necessary identification during manufacture</p>
E161h	Zeaxanthin	$C_{40}H_{56}O_2$	Poultry	} 80 (alone or with other carotenoids and	-

				xanthophylls)	
E161i	Citranaxanthin	$C_{33}H_{44}O$	Laying hens	}	
E161j	Astaxanthin	$C_{40}H_{52}O_4$	(a) Salmon, trout	100	Use only permitted from the age of 6 months onwards. The mixture of astaxanthin with canthaxanthin is allowed provided that the total concentration of the mixture does not exceed 100mg/kg in the complete feedingstuff
			(b) Ornamental fish	-	-
	<b>2. Other colourants</b>				
E102	Tartrazine	$C_{16}H_9N_4 Na_3O_9S_2$	}		
E110	Sunset yellow FCF	$C_{16}H_{10}N_2 Na_2O_7S_2$	} Ornamental	-	-
E124	Ponceau 4R	$C_{20}H_{11}N_2 Na_3O_{10}S_3$	} fish		
E127	Erythrosine	$C_{20}H_6I_4Na_2O_5 H_2O$			
E131	Patent Blue V	Calcium salt of the disulphonic acid of m-hydroxytetra ethyl diamino triphenylcarbinol anhydride	(a) All species or categories of animals with the exception of dogs and cats	-	Permitted in animal feedingstuffs only in products processed from: <ul style="list-style-type: none"> <li>(i) waste products of foodstuffs,</li> <li>(ii) denatured cereals of manioc flour, or</li> <li>(iii) other base substances denatured by means of these agents or coloured during technical preparation to ensure the necessary identification during</li> </ul>

					manufacture
			(b) Dogs and cats	-	-
E132	Indigotine	$C_{16}H_8N_2 Na_2O_8S_2$	Ornamental fish	-	-
E141	Chlorophyll copper complex	-	Ornamental fish	-	-
E142	Acid Brilliant Green BS, (Lissamine Green)	Sodium sale of 4,4'- bis (dimethylamino) diphenylmethylene -2-naphthol-3,6-disulphonic acid	(a) All species or categories of animals with the exception of dogs, cats and ornamental fish	-	Permitted in animal feedingstuffs only in products processed from:  (i) waste products of foodstuffs,  (ii) denatured cereals of manioc flour, or  (iii) other base substances denatured by means of these agents or coloured during technical preparation to ensure the necessary identification during manufacture
		(b) Dogs, cats and ornamental fish	-	-	
E153	Carbon black	C	}		
E160B	Bixin	$C_{25}H_{30}O_4$	} Ornamental fish	-	-
E172	Iron oxide, red	$Fe_2O_3$	}		
	<b>3.</b> All colourants (other than Patent Blue V and Acid Brilliant Green BS and Canthaxanthin)	-	(a) All species or categories of animals with the exception of dogs and cats	-	Permitted in animal feedingstuffs only in products processed from:  (i) waste products of foodstuffs, or

	at present permitted for use in human food by European Community legislation as implemented by Regulations made under the Food Safety Act 1990[17]				(ii) other base substances, with the exception of cereals and manioc flour, denatured by means of these agents or coloured during technical preparation to ensure the necessary identification during manufacture
			(b) Dogs and cats	-	-

## EXPLANATORY NOTE

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

1. These Regulations, which apply to Wales only, further amend the Feeding Stuffs (Wales) Regulations 2001 (S.I. 2001/343 (W. 15), as already amended).
2. These Regulations implement Commission Directive 2003/7/EC amending the conditions for authorisation of canthaxanthin in feedingstuffs in accordance with Council Directive 70/524/EEC (OJ No. L22, 25.1.2003, p. 28).
3. These Regulations modify the controls in the Feeding Stuffs (Wales) Regulations 2001 regulating the presence of additives in feedingstuffs by specifying new maximum levels in feed for the colourant canthaxanthin (*regulation 2(2) and the Schedule*).
4. They also provide for the enforcement of Commission Regulation (EC) No.871/2003 permanently authorising a new additive manganomanganic oxide in feedingstuffs (OJ No. L125, 21.5.2003, p.3) and Commission Regulation (EC) No. 877/2003 provisionally authorising the use of the acidity regulator "Benzoic acid" in feedingstuffs (OJ No. L126, 22.5.2003, p.24) (*regulation 2(3)*).
5. These Regulations also make consequential amendments to regulations 7(1) and 25(1) of the Feeding Stuffs (Wales) Regulations 2001 (*regulation 3*) and consequential amendments to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 and the Feeding Stuffs (Enforcement) Regulations 1999 (*regulations 4 to 11*).
6. A regulatory appraisal has been prepared in relation to these Regulations and has been placed in the library of the National Assembly for Wales, together with a transposition note setting out how the main elements of Directive 2003/7/EC are transposed into domestic law by these Regulations. Copies may be obtained from the Animal Feed Unit of the Food Standards Agency, 11th Floor, Southgate House, Cardiff, CF10 1EN.

*Notes:*

[1] 1970 c. 40. Section 66(1) contains definitions of the expressions "the Ministers", "prescribed" and "regulations"; the definition of "the Ministers" was amended by the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), Schedule 5, paragraph 1. Section 74A was inserted by the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6.[back](#)

[2] S.I. 2000/656.[back](#)

[3] S.I. 2002/794.[back](#)

[4] Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672.[back](#)

[5] OJ No. L31, 1.2.2002, p.1. Under Article 3 of the EC Regulation "food law" extends to feed produced for, or fed to, food producing animals.[back](#)

[6] S.I. 1999/2788.[back](#)

[7] 1972 c. 68.[back](#)

[8] S.I. 2001/343 (W. 15), amended by S.I. 2001/1797 (W. 172), S.I. 2003/989 (W. 138) and S.I. 2003/1850 (W. 200).[back](#)

[9] S.I. 2001/2253 (W. 163).[back](#)

[10] S.I. 2001/3461 (W. 280).[back](#)

[11] S.I. 2002/1797 (W. 172).[back](#)

[12] S.I. 2003/989 (W. 138).[back](#)

[13] S.I. 2003/1850 (W. 200).[back](#)

[14] S.I. 1999/1663, amended by S.I. 1999/1871, S.I. 2001/2253 (W. 163), S.I. 2002/1797 (W. 172), S.I. 2003/1677 (W. 180) and S.I. 2003/1850 (W. 200).[back](#)

[15] S.I. 1999/2325, amended by S.I. 2000/656, S.I. 2001/2253 (W. 163), S.I. 2001/3461 (W. 280), S.I. 2002/1797 (W. 172), S.I. 2003/989 (W. 138), S.I. 2003/1677 (W. 180) and S.I. 2003/1850 (W. 200).[back](#)

[16] 1998 c.38.[back](#)

[17] 1990 c.16.[back](#)

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