WELSH STATUTORY INSTRUMENTS

2000 No. 1925

The Genetically Modified and Novel Foods (Labelling) (Wales) Regulations 2000

GENERAL

Offences and penalties

7. Any person who —

(a) sells any food to which the labelling requirements of Regulation 1139/98 or of Regulation 50/2000 apply which is not marked or labelled with the GMO particulars, except in the case of any food to which regulation 5(3) applies and in respect of which alternative particulars are displayed in accordance with regulation 5(4),

(b) sells any food which is not marked or labelled in accordance with regulation 4, 5 or 6, or

(c) places on the market any novel food or novel food ingredient in respect of which the additional requirements relating to consumer information set out in Article 8(1) of Regulation 258/97 have not been met,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement

8.—(1) Subject to paragraph (2) below, each food authority shall enforce and execute these Regulations in its area and be the competent authority in its area for the purposes of the second paragraph of Article 2(2)(b) of Regulation 1139/98.

(2) Each port health authority shall enforce and execute these Regulations in its district in relation to imported food and be the competent authority in its district in relation to such food for the purposes of the second paragraph of Article 2(2)(b) of Regulation 1139/98.

Defence in relation to exports

9. In any proceedings for an offence under these Regulations, it shall be a defence for the person charged to prove—

(a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that it complies with that legislation; and

(b) in the case of export to a Member State of food to which Regulation 1139/98 or Regulation 50/2000 applies, that the legislation complies with the provisions of Regulation 1139/98 or Regulation 50/2000, as appropriate, as read with Directive 79/112.

Application of various provisions of the Act

10.—(1) The following provisions of the Act shall apply for the purposes of these Regulations and, unless the context otherwise requires, any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations –

section 2 (extended meaning of "sale" etc);

section 3 (presumption that food is intended for human consumption);

section 20 (offences due to fault of another person);

section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15;

section 30(8) (which relates to documentary evidence);

section 32 (powers of entry);

section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by paragraph (3) below; and

section 36 (offences by bodies corporate).

(2) In the application of section 32 of the Act (powers of entry) for the purposes of these Regulations, the reference in subsection (1)(a) to the Act shall be construed as including a reference to Regulation 258/97, Regulation 1139/98 and Regulation 50/2000.

(3) The following provisions of the Act shall apply for the purposes of these Regulations and, unless the context otherwise requires, any reference in those provisions to the Act shall be construed for the purposes of these Regulations as including a reference to these Regulations, as read with Regulation 258/97, Regulation 1139/98 and Regulation 50/2000 –

section 33 (obstruction etc. of officers);

section 44 (protection of officers acting in good faith).

Consequential amendments

11.—(1) The Food Labelling Regulations 1996(**1**) shall be amended (in so far as they apply to Wales) in accordance with paragraphs (2) to (11) below.

(2) In regulation 2(1) (interpretation), the definitions of "the GMO particulars" and "Regulation 1139/98" shall be omitted.

(3) In regulation 3(1)(iv) (exemptions), there shall be substituted for the words ", Directive 94/54 and Regulation 1139/98" the words "and Directive 94/54".

(4) In regulation 26 (small packages and certain indelibly marked bottles) —

(a) in paragraph (1), sub-paragraph (b) and the word "or" preceding it shall be omitted; and

(b) in paragraph (3A), the words "and the GMO particulars" shall be omitted.

(5) In regulation 35 (general requirement as to manner of marking or labelling), the words "or by Regulation 1139/98" shall be omitted.

(6) In regulation 36 (manner of marking or labelling in the case of food to which regulation 23 or 27 applies) –

(a) in paragraph (1), the words "or by Regulation 1139/98" and "or (4A)" shall be omitted; and

(b) paragraphs (4A) to (4C) shall be omitted.

(7) In regulation 38(1) (intelligibility of marking or labelling), the words "or by Regulation 1139/98" shall be omitted.

(8) In regulation 44(1) (offences and penalties), sub-paragraph (f) shall be omitted;

(**1**) S.I.1996/1499; the relevant amending instruments are S.I. 1998/1398, 1999/747, 1483.

(9) In regulation 47(b) (defence in relation to exports), there shall be substituted for the words“, Directive 94/54 and Regulation 1139/98” the words “and Directive 94/54”.

(10) In regulation 48 (application of various provisions of the Food Safety Act 1990), paragraph (2) shall be omitted.

(11) In regulation 50 (transitional provision), paragraphs (5) to (7) shall be omitted.

12. The Novel Foods and Novel Food Ingredients Regulations 1997(**2**) shall be amended (in so far as they apply to Wales), by omitting paragraph 7 in the Schedule (specified Community provisions).

Transitional provisions

13.—(1) In any proceedings for an offence under —

(a) regulation 7(a), or

(b) regulation 7(b), as read with regulation 5 or 6,

in relation to the particulars with which any relevant food is required to be marked or labelled by Regulation 1139/98, it shall be a defence to prove that –

(i) in the case of food sold to the final consumer, it was prepared using an ingredient which was on sale before 1st September 1998, or

(ii) in the case of food sold to a mass caterer, it was prepared using an ingredient which was on sale before 10th April 2000.

(2) In any proceedings for an offence under —

(a) regulation 7(a), or

(b) regulation 7(b), as read with regulation 5 or 6,

in relation to the particulars with which any relevant food or is required to be marked or labelled by Regulation 50/2000, it shall be a defence to prove that the food was sold to the final consumer or to a mass caterer and was prepared using an ingredient which was on sale before 10th April 2000.

(3) For the purposes of paragraphs (1) and (2) above, “relevant food” means food which is —

(i) not prepacked, or

(ii) prepacked for direct sale.

(**2**) S.I. 1997/1335; to which there are amendments not relevant to these Regulations.