



OFFERYNNAU STATUDOL
CYMRU

2007 Rhif 2288 (Cy.178)

AMAETHYDDIAETH, CYMRU

BWYD, CYMRU

**Rheoliadau Bwyd (Atal Defnyddio
E 128 Red 2G fel Lliw Bwyd)
(Cymru) 2007**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau.)

1. Mae'r Rheoliadau hyn yn darparu ar gyfer gweithredu a gorfodi o ran Cymru Reoliad y Comisiwn (EC) Rhif 884/2007 ar fesurau brys i atal defnyddio E 128 Red 2G fel lliw bwyd (OJ Rhif L195, 27.7.2007, t.8).

2. Yn rhinwedd Cyfarwyddeb Senedd Ewrop a'r Cyngor 94/36/EC (OJ Rhif L237, 10.9.1994, t.13, fel y'i diwygiwyd gan Reoliad (EC) Rhif 1882/2003 Senedd Ewrop a'r Cyngor, OJ Rhif L284, 31.10.2003, t.1), mae'r lliw E 128 Red 2G wedi cael ei awdurdodi'n gyfreithiol ar gyfer ei ddefnyddio ym mhob Aelod-wladwriaeth. Rhoddwyd y Gyfarwyddeb honno ar waith gan Reoliadau Lliwiau mewn Bwyd 1995 (O.S. 1995/3124, fel y'i diwygiwyd). Er hynny, mae Rheoliad y Comisiwn (EC) Rhif 884/2007 yn atal gydag effaith ar unwaith y defnydd o'r lliw E 128 Red 2G mewn bwyd a rhoi ar y farchnad a mewnfario bwyd sy'n cynnwys y lliw E 128 Red 2G.

3. Mae'r Rheoliadau hyn-

- (a) yn darparu bod person sydd yn mynd yn groes i neu'n methu â chydymffurfio â darpariaethau penodol Rheoliad y Comisiwn (EC) Rhif 884/2007 (ynghylch atal defnyddio'r lliw E128 Red 2G mewn bwyd; atal rhoi ar y farchnad fwyd sy'n cynnwys y lliw E128 Red 2G; ac atal mewnfario bwyd sy'n cynnwys y lliw E128 Red 2G) yn euog o dramgwydd (*rheoliad 3(1)*);

WELSH
STATUTORY INSTRUMENTS

2007 No. 2288 (W.178)

AGRICULTURE, WALES

FOOD, WALES

**The Food (Suspension of the Use
of E 128 Red 2G as Food Colour)
(Wales) Regulations 2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations provide for the execution and enforcement in relation to Wales of Commission Regulation (EC) No. 884/2007 on emergency measures suspending the use of E 128 Red 2G as food colour (OJ No. L195, 27.7.2007, p.8).

2. By virtue of European Parliament and Council Directive 94/36/EC (OJ No. L237, 10.9.1994, p.13, as amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council, OJ No. L284, 31.10.2003, p.1), the colour E 128 Red 2G is legally authorised for use in all member States. That Directive has been implemented by the Colours in Food Regulations 1995 (S.I. 1995/3124, as amended). However, Commission Regulation (EC) No. 884/2007 suspends with immediate effect the use of the colour E 128 Red 2G in food and the placing on the market and the import of food containing the colour E 128 Red 2G.

3. These Regulations -

- (a) provide that a person who contravenes or fails to comply with certain provisions of Commission Regulation (EC) No. 884/2007 (relating to suspending the use of the colour E128 Red 2G in food; suspending the placing on the market of food containing the colour E128 Red 2G; and suspending the import of food containing the colour E128 Red 2G) is guilty of an offence (*regulation 3(1)*);

- (b) yn darparu cosbau am dramgwyddau o dan reoliad 3(1) (*rheoliad 3(2)*);
- (c) yn darparu ar gyfer eu gweithredu a'u gorfodi (*rheoliad 4*); ac
- (ch) yn cymhwyso gydag addasiadau ddarpariaethau penodol yn Neddf Diogelwch Bwyd 1990 (1990 p. 16) at ddibenion y Rheoliadau (*rheoliad 5*);

4. Mae asesiad effaith rheoleiddiol llawn o'r effaith y bydd yr offeryn hwn yn ei gael ar gostau busnes a'r sector gwirfoddol wedi cael ei baratoi a gellir cael copïau gan yr Asiantaeth Safonau Bwyd, Llawr 11, Southgate House, Wood Street, Caerdydd, CF10 1EW.

- (b) provide penalties for offences under regulation 3(1) (*regulation 3(2)*);
- (c) provide for their execution and enforcement (*regulation 4*); and
- (d) apply with modifications certain provisions of the Food Safety Act 1990 (1990 c. 16) for the purposes of the Regulations (*regulation 5*).

4. A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been prepared and copies may be obtained from the Food Standards Agency, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW.

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AMAETHYDDIAETH, CYMRU

BWYD, CYMRU

**Rheoliadau Bwyd (Atal Defnyddio
E 128 Red 2G fel Lliw Bwyd)
(Cymru) 2007**

Wedi'u gwnaed 1 Awst 2007

*Wedi eu gosod gerbron
Cynulliad Cenedlaethol Cymru* 2 Awst 2007

Yn dod i rym 3 Awst 2007

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(1) fel y'i darllenir gyda pharagraff 1A o Atodlen 2 i'r Ddeddf honno.

Mae Gweinidogion Cymru wedi'u dynodi at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â mesurau sy'n ymwneud â bwyd (gan gynnwys diodydd) gan gynnwys cynhyrchu sylfaenol o ran bwydydd(2).

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer diben a grybwyllir yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 ac mae'n ymddangos i Weinidogion Cymru ei bod yn hwylus i ddehongli unrhyw gyfeiriad at Reoliad y Comisiwn (EC) Rhif 884/2007 ar fesurau brys sy'n atal defnyddio E 128 Red 2G fel lliw bwyd(3) fel cyfeiriad at y Rheoliad hwnnw fel y'i diwygiwyd o dro i dro.

(1) 1972 p. 68. Mewnosodwyd paragraff 1A o Atodlen 2 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (2006 p.51).

(2) O.S. 2005/1971. Yn rhinwedd adran 162 a pharagraffau 28 a 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006, mae swyddogaethau a roddwyd i Gynulliad Cenedlaethol Cymru drwy'r dynodiad hwn yn arferadwy gan Weinidogion Cymru.

(3) OJ Rhif L195, 27.7.2007, t.8.

2007 No. 2288 (W.178)

AGRICULTURE, WALES

FOOD, WALES

**The Food (Suspension of the use of
E 128 Red 2G as Food Colour)
(Wales) Regulations 2007**

Made 1 August 2007

*Laid before the National
Assembly for Wales* 2 August 2007

Coming into force 3 August 2007

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (1) as read with paragraph 1A of Schedule 2 to that Act.

The Welsh Ministers are designated for the purpose 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 (2).

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 any reference to Commission Regulation (EC) No. 884/2007 on emergency measures suspending the use of E 128 Red 2G as food colour(3) to be construed as a reference to that Regulation as amended from time to time.

(1) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51).

(2) S.I. 2005/1971. By virtue of section 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006, functions conferred on the National Assembly for Wales by this designation are exercisable by the Welsh Ministers

(3) OJ No. L195, 27.7.2007, p.8.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Bwyd (Atal Defnyddio E 128 Red 2G fel Lliw Bwyd) (Cymru) 2007 a deuant i rym ar 4 Awst 2007.

Dehongli

2.-(1) Yn y Rheoliadau hyn-

mae i "awdurdod bwyd" yr ystyr y mae "*food authority*" yn ei ddwyn yn rhinwedd adran 5 o Ddeddf Diogelwch Bwyd 1990(1) ac eithrio nad yw'n cynnwys y Trysorydd priodol y cyfeirir ato yn adran 5(1)(c) o'r Ddeddf honno (sy'n ymwneud â'r Deml Fewnol a Chanol);

ystyr "Rheoliad y Comisiwn" ("*the Commission Regulation*") yw Rheoliad y Comisiwn (EC) Rhif 884/2007 ar fesurau brys sy'n atal defnyddio E 128 Red 2G fel lliw bwyd;

ystyr "swyddog awdurdodedig" ("*authorised officer*"), o ran awdurdod bwyd, yw unrhyw berson (boed yn swyddog i'r awdurdod neu beidio) sydd wedi'i awdurdodi'n ysgrifenedig ganddo, naill ai'n gyffredinol neu'n arbennig, i weithredu mewn materion sy'n codi o dan y Rheoliadau hyn.

(2) Pan fo unrhyw swyddogaethau o dan Ddeddf Diogelwch Bwyd yn cael eu haseinio-

- (a) drwy orchymyn o dan adran 2 neu 7 o Ddeddf Iechyd y Cyhoedd (Rheoli Clefydau) 1984(2), i awdurdod iechyd porthladd;
- (b) drwy orchymyn o dan adran 6 o Ddeddf Iechyd y Cyhoedd 1936(3), i gyd-fwrdd ar gyfer dosbarth unedig; neu
- (c) drwy orchymyn o dan baragraff 15(6) o Atodlen 8 i Ddeddf Llywodraeth Leol 1985(4), i awdurdod sengl ar gyfer sir fetropolitanaid,

mae unrhyw gyfeiriad yn y Rheoliadau hyn at awdurdod bwyd i'w ddehongli, i'r graddau y mae'n ymwneud â'r swyddogaethau hynny, fel cyfeiriad at yr awdurdod y maent wedi'u haseinio felly iddo.

(3) Yn y Rheoliadau hyn mae unrhyw gyfeiriad at Rheoliad y Comisiwn yn gyfeiriad at Rheoliad y Comisiwn fel y'i diwygiwyd o dro i dro.

Title and commencement

1. The title of these Regulations is the Food (Suspension of the Use of E 128 Red 2G as Food Colour) (Wales) Regulations 2007 and come into force on 4 August 2007.

Interpretation

2.-(1) In these Regulations-

"authorised officer" ("*swyddog awdurdodedig*"), in relation to a food authority, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under these Regulations;

"the Commission Regulation" ("*rheoliad y Comisiwn*") means Commission Regulation (EC) No. 884/2007 on emergency measures suspending the use of E 128 Red 2G as food colour;

"food authority" (1) has the meaning that it bears by virtue of section 5(1) of the Food Safety Act 1990(2) except that it does not include the appropriate Treasurer referred to in section 5(1)(c) of that Act (which deals with the Inner and Middle Temple).

(2) Where any functions under the Food Safety Act 1990 are assigned-

- (a) by an order under section 2 or 7 of the Public Health (Control of Disease) Act 1984(3), to a port health authority;
- (b) by an order under section 6 of the Public Health Act 1936(4), to a joint board for a united district; or
- (c) by an order under paragraph 15(6) of Schedule 8 to the Local Government Act 1985(5), to a single authority for a metropolitan county,

any reference in these Regulations to a food authority shall be construed, so far as relating to those functions, as a reference to the authority to whom they are so assigned.

(3) In these Regulations any reference to the Commission Regulation is a reference to the Commission Regulation as amended from time to time.

(1) 1990 p.16.

(2) 1984 p.22; amnewidiwyd adran 7(3)(d) gan baragraff 27 o Atodlen 3 i Ddeddf Diogelwch Bwyd 1990.

(3) 1936 p.49; mae adran 6 i'w darllen gyda pharagraff 1 o Atodlen 3 i Ddeddf Diogelwch Bwyd 1990.

(4) 1985 p.51; diwygiwyd adran 15(6) gan baragraff 31(b) o Atodlen 3 i Ddeddf Diogelwch Bwyd 1990.

(1) "*awdurdod bwyd*" in the Welsh Text

(2) 1990 c.16.

(3) 1984 c.22; section 7(3)(d) was substituted by paragraph 27 of Schedule 3 to the Food Safety Act 1990.

(4) 1936 c.49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.

(5) 1985 c.51; paragraph 15(6) was amended by paragraph 31(b) of Schedule 3 to the Food Safety Act 1990.

Atal gweithgareddau sy'n ymwneud â'r lliw E128 Red 2G

3.-(1) Er gwaethaf darpariaethau Rheoliadau Lliwiau mewn Bwyd 1995(1), bydd unrhyw berson sy'n mynd yn groes i ddarpariaethau canlynol Rheoliad y Comisiwn neu'n methu â chydymffurfio â hwy yn euog o dramgwydd-

- (a) Erthygl 1(1) (atal defnyddio lliw E 128 Red 2G mewn bwyd);
- (b) Erthygl 1(2) (atal rhoi ar y farchnad fwyd sy'n cynnwys y lliw E 128 Red 2G); neu
- (c) Erthygl 1(3) (atal mewnfario bwyd sy'n cynnwys y lliw E 128 Red 2G).

(2) Mae person yn euog o dramgwydd o dan baragraff (1) yn atebol o'i gollfarnu'n ddiannod i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol, i garchariad am gyfnod nad yw'n hwy na thri mis, neu i'r ddau.

Gorfodi

4. Dyletswydd pob awdurdod iechyd bwyd yw gweithredu a gorfodi'r Rheoliadau hyn o fewn ei ardal.

Cymhwyso darpariaethau amrywiol Deddf Diogelwch Bwyd 1990

5. Mae darpariaethau canlynol Deddf Diogelwch Bwyd 1990 yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiad bod unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf honno neu at Ran ohoni i'w ddehongli fel cyfeiriad at y Rheoliadau hyn-

- (a) adran 20 (tramgwyddau oherwydd bai person arall);
- (b) adran 21 (amddiffyniad diwydrwydd dyladwy)(2), gyda'r addasiadau bod is-adrannau (2) i (4) yn gymwys mewn perthynas â thrangwydd o dan reoliad 3(1)(b) fel y bôn yn gymwys mewn perthynas â thrangwydd o dan adran 14 neu 15 a bod cyfeiriadau yn is-adran (4)(b) at "sale or intended sale" yn cael eu cyfrif yn gyfeiriadau at "placing on the market";
- (c) adran 32 (pwerau mynediad);
- (ch) adran 33(1) (rhwydro etc. swyddogion);
- (d) adran 33(2), gyda'r addasiad y bernir bod y cyfeiriad at "any such requirement as is mentioned in subsection (1)(b) above" yn gyfeiriad at unrhyw ofyniad a grybwyllir yn adran 33(1)(b) fel y'i cymhwysir gan is-baragraff (ch);

(1) O.S. 1995/3124, y mae diwygiadau iddo nad ydynt yn gymwys i'r Rheoliadau hyn.

(2) Diwygiwyd adran 21 gan O.S.2004/3279.

Suspension of activities involving the colour E128 Red 2G

3.-(1) Notwithstanding the provisions of the Colours in Food Regulations 1995(1), any person who contravenes or fails to comply with the following provisions of the Commission Regulation is guilty of an offence-

- (a) Article 1(1) (suspending the use of the colour E 128 Red 2G in food);
- (b) Article 1(2) (suspending the placing on the market of food containing the colour E 128 Red 2G); or
- (c) Article 1(3) (suspending the import of food containing the colour E 128 Red 2G).

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding three months or to both.

Enforcement

4. It is the duty of each food authority to execute and enforce these Regulations within its area.

Application of various provisions of the Food Safety Act 1990

5. The following provisions of the Food Safety Act 1990 apply for the purposes of these Regulations with the modification that any reference in those provisions to that Act or Part thereof are to be construed as a reference to these Regulations -

- (a) section 20 (offences due to fault of another person);
- (b) section 21 (defence of due diligence)(2), with the modifications that subsections (2) to (4) apply in relation to an offence under regulation 3(1)(b) as they apply in relation to an offence under section 14 or 15 and that in subsection (4)(b) the references to "sale or intended sale" are deemed to be references to "placing on the market";
- (c) section 32 (powers of entry);
- (d) section 33(1) (obstruction etc. of officers);
- (e) section 33(2), with the modification that the reference to "any such requirement as is mentioned in subsection (1)(b) above" are deemed to be a reference to any such requirement as is mentioned in section 33(1)(b) as applied by sub-paragraph (d);

(1) S.I. 1995/3124, to which there are amendments not relevant to these Regulations

(2) Section 21 was amended by S.I. 2004/3279.

- (dd) adran 35(1) (cosbi tramgwyddau)(1), i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(1) fel y'i cymhwysir gan is-baragraff (ch);
- (e) adran 35(2) a (3)(2) i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(2) fel y'i cymhwysir gan is-baragraff (d);
- (f) adran 36 (tramgwyddau gan gyrff corfforaethol);
- (ff) adran 36A (tramgwyddau gan bartneriaethau Albanaidd)(3); ac
- (g) adran 44 (amddiffyn swyddogion sy'n gweithredu'n ddidwyll).

- (f) section 35(1) (punishment of offences)(1), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (d);
- (g) section 35(2) and (3)(2), in so far as it relates to offences under section 33(2) as applied by sub-paragraph (e);
- (h) section 36 (offences by bodies corporate);
- (i) section 36A (offences by Scottish partnerships)(3); and
- (j) section 44 (protection of officers acting in good faith).

Edwina Hart

Y Gweinidog dros Iechyd a Gwasanaethau
Cymdeithasol, un o Weinidogion Cymru

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

1 Awst 2007

1 August 2007

(1) Diwygir adran 35(1) gan Ddeddf Cyfiawnder Troseddol 2003 (2003 p. 44), Atodlen 26, paragraff 42, o ddyddiad sydd i'w bennu.

(2) Diwygiwyd adran 35(3) gan O.S. 2004/3279.

(3) Mewnosodwyd adran 36A gan Ddeddf Safonau Bwyd 1999 (1999 p. 28), Atodlen 5, paragraff 16.

(1) Section 35(1) is amended by the Criminal Justice Act 2003 (2003 c. 44), Schedule 26, paragraph 42, from a date to be appointed.

(2) Section 35(3) was amended by S.I. 2004/3279.

(3) Section 36A was inserted by the Food Standards Act 1999 (1999 c. 28), Schedule 5, paragraph 16.

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