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WELSH STATUTORY INSTRUMENTS

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**2009 No. 2880 (W.253)**

**FOOD, WALES**

**The Food Labelling (Declaration of Allergens) (Wales) Regulations 2009**

<i>Made</i>	- - - -	<i>27 October 2009</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>29 October 2009</i>
<i>Coming into force</i>	- -	<i>20 November 2009</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990<sup>(1)</sup>.

In accordance with section 48(4A) of that Act, they have had regard to relevant advice given by the Food Standards Agency.

As required 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<sup>(2)</sup>, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Food Labelling (Declaration of Allergens) (Wales) Regulations 2009 and they come into force on 20 November 2009.

(2) These Regulations apply in relation to Wales.

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(1) 1990 c. 16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2900. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (c. 28), (“the 1999 Act”). Section 48 was also amended by S.I. 2004/2990.

Functions formerly exercisable by “the Ministers” (being in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales, and, in relation to Scotland, the Secretary of State) are now exercisable in England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Functions of “the Ministers” 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 1999 Act and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). Those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46) as read with section 40(2) of the 1999 Act.

(2) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14).

## **Amendment of the Food Labelling Regulations 1996**

**2.**—(1) The Food Labelling Regulations 1996<sup>(3)</sup> are amended in accordance with paragraph (2).

(2) In regulation 50 (transitional provision), for paragraph (15) substitute the following—

“(15) In any proceedings for an offence under regulation 44(1)(a) it is a defence to prove that—

(a) in the case of—

(i) wine in which lysozyme is used, or in which albumin (produced from egg) or a milk (casein) product has been used as a fining agent, the food concerned was sold before 31 December 2010 or marked or labelled before that date, or

(ii) any other food, the food concerned was sold before 31 May 2009 or marked or labelled before that date; and

(b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendments made by regulation 2 of the Food Labelling (Declaration of Allergens) (Wales) Regulations 2009<sup>(4)</sup> had not been in operation when the food was sold.”.

## **Revocation**

**3.** Regulation 2(6) of the Food Labelling (Declaration of Allergens) (Wales) Regulations 2008<sup>(5)</sup> is revoked.

*Gwenda Thomas*  
Deputy Minister for Social Services, under  
authority of the Minister for Health and Social  
Services, one of the Welsh Ministers

27 October 2009

(3) S.I. 1996/1499, as last amended by S.I. 2008/1268 (W.128). Regulations 13(8)(c) and 34B and the associated Schedule AA1 were inserted by S.I. 2004/3022 (W.261). Regulation 34B was amended by S.I. 2005/2835 (W.200); Schedule AA1 was amended by S.I. 2007/3379 (W.301) and by S.I. 2008/1268 (W.128). Paragraph (13) of regulation 50 was inserted by S.I. 2005/1309 (W.91), paragraph (14) of that regulation by S.I. 2007/3379 (W.301) and paragraph (15) of that regulation by S.I. 2008/1268 (W.128).

(4) S.I. 2009/2880 (W.253).

(5) S.I. 2008/1268 (W.128).

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## EXPLANATORY NOTE

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

1. These Regulations further amend the Food Labelling Regulations 1996 (“the principal Regulations”) in so far as they apply in relation to Wales. The principal Regulations extend to the whole of Great Britain.

2. These Regulations implement in Wales the amendment made to Directive [2007/68/EC](#) (OJ No. L310, 28.11.2007, p.11) by Commission Regulation No. [415/2009/EC](#) (OJ No. L125, 21.05.2009, p.52). This Directive itself amends Annex IIIa to Directive [2000/13/EC](#) of the European Parliament and of the Council as regards certain food ingredients (OJ No. L109, 6.5.2000, p.29). The ingredients in question are those that are likely to cause an allergic reaction in some consumers.

3. The Regulations amend the principal Regulations in respect of the labelling requirements for foods containing allergenic ingredients, including labelling exemptions for certain processed forms of those ingredients, by extending from 31 May 2009 to 31 December 2010 the transitional period for egg-derived lysozyme and for albumin (produced from egg) or milk (casein) products when used as fining agents in wine, in respect of wines that are marked, labelled or sold before that date.