



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2009 Rhif 3105 (Cy.271)

2009 No. 3105 (W.271)

BWYD, CYMRU

FOOD, WALES

Rheoliadau Deunyddiau ac
Eitemau mewn Cysylltiad â Bwyd
(Cymru) (Diwygio) 2009

The Materials and Articles in
Contact with Food (Wales)
(Amendment) Regulations 2009

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

1. Mae'r Rheoliadau hyn yn diwygio ymhellach Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2007 (O.S. 2007/3252 (Cy. 287), fel y'i diwygiwyd ynghynt gan O.S. 2008/1237 (Cy. 124), O.S. 2008/1682 (Cy. 162) ac O.S. 2009/481 (Cy. 49)) ("y prif Reoliadau") er mwyn darparu ar gyfer gweithredu a gorfodi Rheoliad y Comisiwn (EC) Rhif 450/2009 ar ddeunyddiau ac eitemau gweithredol a deallus y bwriedir iddynt ddod i gysylltiad â bwyd (OJ Rhif L135, 30.5.2009, t.3) ("Rheoliad 450/2009"). Mae'r Rheoliadau hefyd yn diwygio'r modd y diffinnir mewnfario yn y prif Reoliadau.

1. These Regulations further amend the Materials and Articles in Contact with Food (Wales) Regulations 2007 (S.I. 2007/3252 (W. 287), as previously amended by S.I. 2008/1237 (W. 124), S.I. 2008/1682 (W. 162) and S.I. 2009/481 (W. 49)) ("the principal Regulations") in order to provide for the execution and enforcement of Commission Regulation (EC) No. 450/2009 on active and intelligent materials and articles intended to come into contact with food (OJ No. L135, 30.5.2009, p.3) ("Regulation 450/2009"). The Regulations also amend the way import is defined in the principal Regulations.

2. Yn fanwl, mae'r Rheoliadau hyn yn diwygio'r prif Reoliadau drwy—

2. In detail, these Regulations amend the principal Regulations by—

- (a) mewnosod diffiniad o Reoliad 450/2009 (*rheoliad 3(a)(i)*);
- (b) diwygio'r diffiniad o "mewnfario" i gyfeirio at gynhyrchion sy'n dod o oddi allan i'r Ardal Economaidd Ewropeaidd (*rheoliad 3(a)(ii)*);
- (c) peri bod torri gofynion penodol yn Rheoliad 450/2009 (*rheoliad 4*) yn dramgwydd, gosod cosbau ar gyfer y cyfryw dramgwydd (*rheoliad 6*), a darparu ar gyfer amddiffyniad mewn amgylchiadau penodol (*rheoliad 8*);
- (ch) penodi'r awdurdodau cymwys at ddibenion darpariaethau penodol yn Rheoliad 450/2009 (*rheoliad 5*);
- (d) dynodi'r awdurdodau gorfodi at ddibenion darpariaethau penodol yn Rheoliad 450/2009 (*rheoliad 7*); ac

- (a) inserting a definition of Regulation 450/2009 (*regulation 3(a)(i)*);
- (b) amending the definition of "import" to refer to products which come from outside the European Economic Area (*regulation 3(a)(ii)*);
- (c) making it an offence to contravene specified requirements of Regulation 450/2009 (*regulation 4*), attaching penalties for such an offence (*regulation 6*), and providing for a defence in certain circumstances (*regulation 8*);
- (d) specifying the competent authorities for the purposes of certain provisions of Regulation 450/2009 (*regulation 5*);
- (e) designating the enforcement authorities for the purposes of certain provisions of Regulation 450/2009 (*regulation 7*); and

(dd) darparu bod darpariaethau penodol yn Neddf Diogelwch Bwyd 1990 yn gymwys at ddibenion gorfodi Rheoliad 450/2009 (*rheoliad 9*).

3. Ni luniwyd asesiad effaith llawn ar gyfer y Rheoliadau hyn, gan na ragwelir unrhyw effaith o gwbl ar y sector preifat na'r sector gwirfoddol.

(f) providing that certain provisions of the Food Safety Act 1990 apply for the purposes of the enforcement of Regulation 450/2009 (*regulation 9*).

3. A full impact assessment has not been prepared for these Regulations as no impact on the voluntary or private sector is foreseen.

2009 Rhif 3105 (Cy.271)

BWYD, CYMRU

**Rheoliadau Deunyddiau ac
Eitemau mewn Cysylltiad â Bwyd
(Cymru) (Diwygio) 2009**

Gwnaed 26 Tachwedd 2009

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 27 Tachwedd 2009

Yn dod i rym 19 Rhagfyr 2009

Mae Gweinidogion Cymru'n gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd gan adrannau 16(2), 17(2), 26(1)(a) a (2)(a) a 48(1) o Ddeddf Diogelwch Bwyd 1990(1), ac a freiniwyd bellach ynddynt hwy(2).

Yn unol ag adran 48(4A) o'r Ddeddf honno, maent wedi rhoi sylw i gyngor perthnasol a roddwyd iddynt gan yr Asiantaeth Safonau Bwyd.

Fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor, sy'n gosod egwyddorion cyffredinol a gofynion cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch bwyd(3), cafwyd ymgynghoriad cyhoeddus agored a thryloyw tra'r oedd y Rheoliadau hyn yn cael eu paratoi a'u gwerthuso.

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- (1) 1990 p.16, amnewidwyd adran 1(1) a (2) (y diffiniad o "food") gan O.S. 2004/2990. Diwygiwyd adrannau 17 a 48 gan baragraffau 12 a 21 yn eu trefn o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (1999 p.28), "Deddf 1999". Diwygiwyd adran 48 hefyd gan O.S. 2004/2990. Diwygiwyd adran 53(2) gan baragraff 19 o Atodlen 16 i Ddeddf Dadreoleiddio a Chontractio Allan 1994 (1994 p.40), Atodlen 6 i Ddeddf 1999 ac O.S. 2004/2990.
- (2) Trosglwyddwyd swyddogaethau "the Ministers" i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) fel y'i darlennir gydag adran 40(3) o Ddeddf 1999, a'u trosglwyddo wedi hynny i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (2006 p.32).
- (3) OJ Rhif L31, 1.2.2002, t.1. Diwygiwyd y Rheoliad hwnnw ddiwethaf gan Reoliad (EC) Rhif 596/2009 Senedd Ewrop a'r Cyngor sy'n addasu nifer o offerynnau yn ddarostyngedig i'r weithdrefn y cyfeirir ati yn Erthygl 251 o'r Cytuniad i Benderfyniad y Cyngor 1999/468 o ran y weithdrefn reoleiddiol gyda chraffu; Addasiad i'r weithdrefn reoleiddiol gyda chraffu - Rhan Pedwar (OJ Rhif L188, 18.7.2009, t.14).

2009 No. 3105 (W.271)

FOOD, WALES

**The Materials and Articles in
Contact with Food (Wales)
(Amendment) Regulations 2009**

Made 26 November 2009

*Laid before the National Assembly
for Wales* 27 November 2009

Coming into force 19 December 2009

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(2), 17(2), 26(1)(a) and (2)(a) and 48(1) of the Food Safety Act 1990(1) which are now vested in them(2).

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(3), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

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- (1) 1990 c.16, section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28), "the 1999 Act". Section 48 was also amended by S.I. 2004/2990. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c.40), Schedule 6 to the 1999 Act and S.I. 2004/2990.
- (2) 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 (2006 c.32).
- (3) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by 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 the 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).

Enwi, cychwyn a chymhwys

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) (Diwygio) 2009, a deuant i rym ar 19 Rhagfyr 2009.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Diwygiadau i Reoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2007

2. Mae Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2007(1) yn cael eu diwygio yn unol â rheoliadau 3 i 9.

3. Yn rheoliad 2 (dehongli)–

(a) ym mharagraff (1)–

(i) ar ôl y diffiniad o "Rheoliad 2023/2006" ("*Regulation 2023/2006*") mewnosoder y diffiniad canlynol–

"ystyr "Rheoliad 450/2009" ("*Regulation 450/2009*") yw Rheoliad y Comisiwn (EC) Rhif 450/2009 ar ddeunyddiau ac eitemau gweithredol a deallus y bwriedir iddynt ddod i gysylltiad â bwyd(2);", a

(ii) yn y diffiniad o "mewnforio" ("*import*") yn lle "Aelod-wladwriaeth" rhodder "Gwladwriaeth Ardal Economaidd Ewropeaidd"; a

(b) hepgorer paragraff (2).

4. Ar ôl rheoliad 4 (gorfodi Rheoliad 1935/2004) mewnosoder y canlynol fel rheoliad 4A–

"Gorfodi Rheoliad 450/2009

4A. Bydd unrhyw berson sy'n torri unrhyw un o'r darpariaethau canlynol o Reoliad 450/2009 yn euog o dramgwydd–

(a) Erthygl 4(f) (gwahardd rhoi ar y farchnad ddeunyddiau ac eitemau gweithredol a deallus nad ydynt yn cydymffurfio â'r gofynion labelu);

(b) Erthygl 11(1) a (2) (rheolau ychwanegol ar labelu), fel y'i darllenir gyda 4ydd indent Erthygl 14;

(c) Erthygl 12 (datganiad cydymffurfio); ac

(ch)Erthygl 13 (dogfennau ategol)."

5. Ar ôl rheoliad 6 (awdurdodau cymwys at ddibenion Rheoliad 1934/2004), mewnosoder y canlynol fel rheoliad 6A–

Title, commencement and application

1.–(1) The title of these Regulations is the Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2009, and they come into force on 19 December 2009.

(2) These Regulations apply in relation to Wales.

Amendments to the Materials and Articles in Contact with Food (Wales) Regulations 2007

2. The Materials and Articles in Contact with Food (Wales) Regulations 2007(1) are amended in accordance with regulations 3 to 9.

3. In regulation 2 (interpretation)–

(a) in paragraph (1)–

(i) after the definition of "Regulation 2023/2006" ("*Rheoliad 2023/2006*") insert the following definition–

""Regulation 450/2009" ("*Rheoliad 450/2009*") means Commission Regulation (EC) No. 450/2009 on active and intelligent materials and articles intended to come into contact with food(2);", and

(ii) in the definition of "import" ("*mewnforio*") for "a Member State" substitute "an EEA State"; and

(b) paragraph (2) is omitted.

4. After regulation 4 (enforcement of Regulation 1935/2004) insert the following as regulation 4A–

"Enforcement of Regulation 450/2009

4A. Any person who contravenes any of the following provisions of Regulation 450/2009 is guilty of an offence–

(a) Article 4(f) (prohibition on the placing on the market of active and intelligent materials and articles that do not comply with labelling requirements);

(b) Article 11(1) and (2) (additional rules on labelling), as read with the 4th indent of Article 14;

(c) Article 12 (declaration of compliance); and

(d) Article 13 (supporting documentation)."

5. After regulation 6 (competent authorities for the purposes of Regulation 1934/2004), insert the following as regulation 6A–

(1) O.S. 2007/3252 (Cy. 287), fel y'i diwygiwyd gan O.S. 2008/1237 (Cy. 124), O.S. 2008/1682 (Cy. 162) ac O.S. 2009/481 (Cy. 49).

(2) OJ Rhif L135, 30.5.2009, t.3.

(1) S.I. 2007/3252 (W. 287), as amended by S.I. 2008/1237 (W. 124), S.I. 2008/1682 (W. 162) and S.I. 2009/481 (W. 49).

(2) OJ No. L135, 30.5.2009, p.3.

"Awdurdodau cymwys at ddibenion Rheoliad 450/2009

6A. Yr awdurdodau cymwys at ddibenion Erthygl 13 o Reoliad 450/2009 yw'r Asiantaeth Safonau Bwyd a'r awdurdod sydd â chyfrifoldeb dros orfodi yn unol â rheoliad 14(1)."

6. Ym mharagraff (2)(a) o reoliad 13 (tramgwyddau a chosbau), yn lle "rheoliad 4 neu 5" rhodder "rheoliad 4, 4A neu 5".

7. Yn lle rheoliad 14 (gorfodi) rhodder y canlynol—

"14.—(1) Rhaid i bob awdurdod bwyd yn ei ardal a phob awdurdod iechyd porthladd yn ei ranbarth weithredu a gorfodi—

- (a) darpariaethau Rheoliad 1935/2004 a grybwyllir yn rheoliad 4;
- (b) darpariaethau Rheoliad 450/2009 a grybwyllir yn rheoliad 4A; ac
- (c) yn ddarostyngedig i baragraff (3), y Rheoliadau hyn.

(2) Caiff yr Asiantaeth Safonau Bwyd weithredu a gorfodi darpariaethau—

- (a) Erthyglau 16(1) ac 17(2) o Reoliad 1935/2004; a
- (b) Erthygl 13 o Reoliad 450/2009.

(3) Rhaid i bob awdurdod bwyd yn ei ardal weithredu a gorfodi darpariaethau Rheoliad 2023/2006 a grybwyllir yn rheoliad 5."

8. Ym mharagraff (2) o reoliad 18 (amddiffyniadau cyffredinol), yn lle "reoliad 4 neu 13(1)(a)" rhodder "reoliad 4, 4A neu 13(1)(a)".

9. Yn rheoliad 21 (gweithredu amryfal ddarpariaethau o'r Ddeddf)—

- (a) ym mharagraff (2), yn lle "Reoliad 1935/2004 neu, fel y bo'n briodol, at Reoliad 2023/2006." rhodder "Reoliad 1935/2004, Rheoliad 2023/2006 neu Reoliad 450/2009 fel y bo'n briodol."; a
- (b) ym mharagraff (3), yn lle "Reoliad 1935/2004 neu, fel y bo'n briodol, at Reoliad 2023/2006," rhodder "Reoliad 1935/2004, Rheoliad 2023/2006 neu Reoliad 450/2009 fel y bo'n briodol".

"Competent authorities for the purposes of Regulation 450/2009

6A. The competent authorities for the purposes of Article 13 of Regulation 450/2009 are the Food Standards Agency and the authority having responsibility for enforcement pursuant to regulation 14(1)."

6. In paragraph (2)(a) of regulation 13 (offences and penalties), for "regulation 4 or 5" substitute "regulation 4, 4A or 5".

7. For regulation 14 (enforcement) substitute the following—

"14.—(1) Each food authority in its area and each port health authority in its district must execute and enforce—

- (a) the provisions of Regulation 1935/2004 mentioned in regulation 4;
- (b) the provisions of Regulation 450/2009 mentioned in regulation 4A; and
- (c) subject to paragraph (3), these Regulations.

(2) The Food Standards Agency may execute and enforce the provisions of—

- (a) Articles 16(1) and 17(2) of Regulation 1935/2004; and
- (b) Article 13 of Regulation 450/2009.

(3) Each food authority in its area must execute and enforce the provisions of Regulation 2023/2006 mentioned in regulation 5."

8. In paragraph (2) of regulation 18 (general defences), for "regulation 4 or 13(1)(a)" substitute "regulation 4, 4A or 13(1)(a)".

9. In regulation 21 (application of various provisions of the Act)—

- (a) in paragraph (2), for "Regulation 1935/2004 or as appropriate to Regulation 2023/2006." substitute "Regulation 1935/2004, Regulation 2023/2006 or Regulation 450/2009 as appropriate."; and
- (b) in paragraph (3), for "Regulation 1935/2004 or, as appropriate Regulation 2023/2006," substitute "Regulation 1935/2004, Regulation 2023/2006 or Regulation 450/2009 as appropriate".

Gwenda Thomas

Y Dirprwy Weinidog dros Wasanaethau Cymdeithasol,
o dan awdurdod y Gweinidog dros Iechyd a
Gwasanaethau Cymdeithasol, un o Weinidogion
Cymru

26 Tachwedd 2009

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

26 November 2009

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