
WELSH STATUTORY INSTRUMENTS

2013 No. 2139

The Fish Labelling (Wales) Regulations 2013

PART 2

Consumer information and traceability requirements in Wales

Interpretation of Part 3

3. In this Part, “the Act” (“*y Ddeddf*”) means the Food Safety Act 1990.

Consumer information and traceability requirements

4.—(1) In this Part—

- (a) “consumer information requirement” (“*gofyniad gwybodaeth i ddefnyddwyr*”) means a requirement referred to in paragraph (2), subject to paragraphs (4) to (7); and
- (b) “traceability requirement” (“*gofyniad gallu i olrhain*”) means a requirement referred to in paragraph (3), subject to paragraph (7).

(2) For the purposes of paragraph (1)(a), the requirements are—

- (a) a requirement specified in Article 4(1) of Regulation 104/2000 (provision of consumer information) as read with the following provisions of Regulation 2065/2001—
 - (i) Articles 2 and 3 (commercial designation),
 - (ii) Article 4(1) and (3) (production method),
 - (iii) Article 5 (catch area), and
 - (iv) Article 6 (combination sales);
- (b) a requirement specified in Article 58(6) of Regulation 1224/2009 as read with Articles 67(13) and 68 of Regulation 404/2011.

(3) For the purposes of paragraph (1)(b), the requirements are Article 58(2), (3) and (5) of Regulation 1224/2009 as read with Article 58(7) of that Regulation and Article 67(1) to (3) and (5) to (13) of Regulation 404/2011.

(4) The requirement specified in Article 4(1) of Regulation 104/2000 as read with Article 4(1) of Regulation 2065/2001 does not apply in circumstances described in Article 4(2) of Regulation 2065/2001.

(5) The requirement specified in Article 4(1) of Regulation 104/2000 as read with Article 5(1)(c) of Regulation 2065/2001 does not preclude the indication of various member States or third countries as described in Article 5(1)(c) of Regulation 2065/2001.

(6) The requirement referred to in paragraph (2)(a) does not apply in circumstances described in the last paragraph of Article 4(1) of Regulation 104/2000, as read with the last sentence of Article 7 of Regulation 2065/2001, where each purchase does not exceed the sterling equivalent of 20 euros or, in the case of direct sale from a fishing vessel, 50 euros.

(7) The requirements referred to in paragraphs (2)(b) and (3) do not apply in circumstances described in Article 58(8) of Regulation 1224/2009, as read with Article 67(14) of Regulation 404/2011, where the sale does not exceed the sterling equivalent of 50 euros per day.

Improvement notice

5.—(1) Section 10 of the Act (improvement notices) applies for the purposes of these Regulations with the following modifications.

(2) For subsection (1), substitute—

“(1) If an authorised officer of an enforcement authority has reasonable grounds for believing that an operator has not complied with, or is not likely to comply with, a consumer information requirement or a traceability requirement, the officer may, by notice served on that operator (in this Act referred to as an “improvement notice”)—

- (a) state the officer’s grounds for believing that the operator is failing to comply with those requirements;
- (b) specify the matters which constitute the operator’s failure so to comply;
- (c) specify the measures which, in the officer’s opinion, the operator must take in order to secure compliance; and
- (d) require the operator to take those measures, or measures which are at least equivalent to them, within such period as may be specified in the notice.”

(3) For subsection (3), substitute—

“(3) In this section—

- (a) “consumer information requirement” and “traceability requirement” have the meanings given by regulation 4(1) of the Fish Labelling (Wales) Regulations 2013;
- (b) “operator” has the same meaning as in the EU Regulations as defined in regulation 2(1) of the Fish Labelling (Wales) Regulations 2013 as read with regulation 2(2)(a) of those Regulations.

Appeal to the magistrates’ court

6.—(1) Section 37 of the Act(1) (appeals to magistrates’ court or sheriff) applies for the purposes of these Regulations with the following modifications.

(2) For subsection (1), substitute—

“(1) Any person who is aggrieved by a decision of an authorised officer of an enforcement authority to serve an improvement notice under section 10, as applied by regulation 5 of the Fish Labelling (Wales) Regulations 2013, may appeal to the magistrates’ court.”

(3) Omit subsections (2) to (5).

(4) In subsection (6), for “(3) or (4)”, substitute “(1)”.

Appeals against improvement notices

7.—(1) Section 39 of the Act (appeals against improvement notices) applies for the purposes of these Regulations with the following modifications.

(2) For subsection (1), substitute—

(1) Section 37 was amended by section 48(1) of, and paragraph 13(1) and (3) of Schedule 8 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) and by section 146 of, and Part 1 of Schedule 23 to, that Act.

“(1) On an appeal against an improvement notice served under section 10, as applied by regulation 5 of the Fish Labelling (Wales) Regulations 2013, the court may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.”

(3) In subsection (3), omit “for want of prosecution”.

Requirement to keep records

8.—(1) For the purposes of Article 58(4) of Regulation 1224/2009, an operator must keep a record of the information referred to in that Article as read with Article 67(4) of Regulation 404/2011.

(2) The record must be kept for three years from the date the transaction is completed.

(3) It is an offence to fail to comply with this regulation.

Requirement to produce records

9. An operator who fails to comply with the second sentence of Article 58(4) of Regulation 1224/2009 is guilty of an offence.

Penalties

10. A person guilty of an offence under regulation 8 or 9 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Application and modification of the Act

11. The Schedule (application and modification of the Act) has effect.

Enforcement

12.—(1) Each food authority must enforce and execute these Regulations in its area.

(2) Each food authority is the competent authority in its area for the purposes of Article 58(4) of Regulation 1224/2009 and Article 67(5) of Regulation 404/2011.

Revocation

13. The Fish Labelling (Wales) Regulations 2010(2) are revoked.