OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2018 Rhif 913 (Cy. 179)

2018 No. 913 (W. 179)

BWYD, CYMRU

FOOD, WALES

Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) (Diwygio) 2018

The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2018

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012 (O.S. 2012/2705 (Cy. 291)) ("y prif Reoliadau") i ddarparu ar gyfer gorfodi Rheoliad y Comisiwn (EU) 2018/213 ar y defnydd o bisffenol A mewn farneisiau ac araenau y bwriedir iddynt ddod i gysylltiad â bwyd ac sy'n diwygio Rheoliad (EU) Rhif 10/2011 o ran y defnydd o'r sylwedd hwnnw mewn deunyddiau plastig sy'n dod i gysylltiad â bwyd (OJ Rhif L 41, 14.2.2018, t. 6) ("Rheoliad 2018/213").

Mae rheoliad 4 yn diwygio rheoliad 14 o'r prif Reoliadau i orfodi'r ddarpariaeth drosiannol y darperir ar ei chyfer yn Erthygl 6 o Reoliad 2018/213. Nid yw person yn euog o'r drosedd o fethu â chydymffurfio â gofyniad yn Rheoliad (EU) Rhif 10/2011 ar ddeunyddiau ac eitemau plastig y bwriedir iddynt ddod i gysylltiad â bwyd (OJ Rhif L 12, 15.1.2011, t. 1) a bennir yng ngholofn 1 o Atodlen 1 i'r prif Reoliadau os rhoddwyd y deunydd neu eitem plastig ar y farchnad yn gyfreithlon cyn 6 Medi 2018. Caiff cynhyrchion o'r fath aros ar y farchnad nes i'r stociau gael eu disbyddu.

Mae rheoliad 5 yn mewnosod rheoliadau newydd 17A i 17C yn y prif Reoliadau i ddarparu ar gyfer gorfodi darpariaethau Rheoliad 2018/213 ar y defnydd o bisffenol A mewn farneisiau ac araenau y bwriedir iddynt ddod i gysylltiad â bwyd. Mae rheoliad newydd 17B yn darparu, yn ddarostyngedig i'r ddarpariaeth drosiannol yn Erthygl 6 o Reoliad 2018/213, fod unrhyw berson sy'n rhoi ar y farchnad ddeunydd neu eitem sy'n methu â chydymffurfio ag Erthygl 2 o'r Rheoliad hwnnw yn euog o drosedd. Mae Erthygl 2 yn

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Materials and Articles in Contact with Food (Wales) Regulations 2012 (S.I. 2012/2705 (W. 291)) ("the principal Regulations") to provide for the enforcement of Commission Regulation (EU) 2018/213 on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No 10/2011 as regards the use of that substance in plastic food contact materials (OJ No L 41, 14.2.2018, p. 6) ("Regulation 2018/213").

Regulation 4 amends regulation 14 of the principal Regulations to enforce the transitional provision provided for in Article 6 of Regulation 2018/213. A person is not guilty of the offence of failing to comply with a requirement of Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 12, 15.1.2011, p. 1) specified in column 1 of Schedule 1 of the principal Regulations if the plastic material or article was lawfully placed on the market before 6 September 2018. Such products may remain on the market until exhaustion of stocks.

Regulation 5 inserts new regulations 17A to 17C into the principal Regulations to provide for the enforcement of the provisions of Regulation 2018/213 on the use of bisphenol A in varnishes and coatings intended to come into contact with food. New regulation 17B provides that subject to the transitional provision in Article 6 of Regulation 2018/213, any person who places on the market a material or article that fails to comply with Article 2 of that Regulation is guilty of an offence. Article 2 provides that no

darparu na chaniateir i unrhyw bisffenol A gael ei ollwng o farneisiau neu araenau y bwriedir yn benodol iddynt ddod i gysylltiad â bwydydd i fabanod neu i blant ifanc ac, mewn perthynas â phob farnais ac araen arall y bwriedir iddynt ddod i gysylltiad â bwyd, na chaniateir i fwy na 0.05mg o bisffenol A gael ei ollwng fesul pob kg o fwyd y maent mewn cysylltiad ag ef. Mae rheoliad newydd 17C yn darparu mai'r Asiantaeth Safonau Bwyd yw'r awdurdod cymwys at ddibenion Erthygl 4(3) o Reoliad 2018/213.

Mae rheoliadau 6 a 7 yn diwygio'r prif Reoliadau i ddarparu bod person sy'n rhwystro'n fwriadol unrhyw berson sy'n gweithredu i roi Rheoliad 2018/213 ar waith yn cyflawni trosedd ac yn agored ar euogfarn ddiannod i ddirwy nad yw'n uwch na lefel 4 ar y raddfa safonol. Mae person sy'n euog o'r drosedd o fethu â chydymffurfio ag Erthygl 2 o Reoliad 2018/213 yn agored ar euogfarn ar dditiad i ddirwy ddiderfyn neu i garchariad am gyfnod nad yw'n hwy na dwy flynedd, neu'r ddau, neu ar euogfarn ddiannod, i ddirwy ddiderfyn.

Mae rheoliadau 8 a 9 yn diwygio'r prif Reoliadau i alluogi swyddog awdurdodedig i'r awdurdod gorfodi i gyflwyno hysbysiad gwella i'w gwneud yn ofynnol i berson gydymffurfio ag Erthygl 4 o Reoliad 2018/213. Mae Erthygl 4 yn ei gwneud yn ofynnol i weithredwyr busnes sicrhau bod deunyddiau ac eitemau sydd wedi eu farneisio neu eu haraenu ac y bwriedir iddynt ddod i gysylltiad â bwyd yn dod gyda datganiad ysgrifenedig o gydymffurfedd â Rheoliad 2018/213.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth yr Asiantaeth Safonau Bwyd yn: Asiantaeth Safonau Bwyd Cymru, 11eg Llawr, Tŷ Southgate, Wood Street, Caerdydd, CF10 1EW neu ar wefan yr Asiantaeth ar www.food.gov.uk.

bisphenol A may be released from varnishes or coatings specifically intended to come into contact with foods for babies, infants or young children and that, in relation to all other varnishes and coatings intended to come into contact with food, no more than 0.05mg of bisphenol A may be released per kg of food with which they are in contact. New regulation 17C provides that the Food Standards Agency is the competent authority for the purposes of Article 4(3) of Regulation 2018/213.

Regulations 6 and 7 amend the principal Regulations to provide that a person who intentionally obstructs any person acting in the execution of Regulation 2018/213 commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale. A person guilty of the offence of failing to comply with Article 2 of Regulation 2018/213 is liable on conviction on indictment to an unlimited fine or to a term of imprisonment not exceeding two years, or both, or on summary conviction, to an unlimited fine.

Regulations 8 and 9 amend the principal Regulations to enable an authorised officer of the enforcement authority to serve an improvement notice to require a person to comply with Article 4 of Regulation 2018/213. Article 4 requires business operators to ensure that varnished or coated materials and articles intended to come into contact with food are accompanied by a written declaration of compliance with Regulation 2018/213.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Food Standards Agency at Food Standards Agency Wales, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW or from the Agency's website at www.food.gov.uk.

2018 Rhif 913 (Cy. 179)

BWYD, CYMRU

Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) (Diwygio) 2018

Gwnaed	*30 Gorffennaf 2018*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*1 Awst 2018*
Yn dod i rym	*6 Medi 2018*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan adrannau 16(2), 17(1) a (2), 26(1)(a), (2)(a) a (3) ac 48(1) o Ddeddf Diogelwch Bwyd 1990(**1**).

Yn unol ag adran 48(4A)(**2**) o Ddeddf Diogelwch Bwyd 1990, mae Gweinidogion Cymru wedi rhoi sylw i gyngor perthnasol a roddwyd gan yr Asiantaeth Safonau Bwyd cyn gwneud y Rheoliadau hyn.

Ymgynghorwyd yn agored ac yn dryloyw â'r cyhoedd wrth lunio a gwerthuso'r Rheoliadau hyn 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**).

(**1**) 1990 p. 16. Diwygiwyd adran 16(2) gan baragraff 8 o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (p. 28) ("Deddf 1999"). Diwygiwyd adran 17(1) a (2) gan baragraffau 8 a 12(a) o Atodlen 5 i Ddeddf 1999 ac O.S. 2011/1043. Diwygiwyd adran 26(3) gan Atodlen 6 i Ddeddf 1999. Diwygiwyd adran 48(1) gan baragraff 8 o Atodlen 5 i Ddeddf 1999. Trosglwyddwyd swyddogaethau a oedd gynt yn arferadwy gan "the Ministers", i'r graddau yr oeddent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan O.S. 1999/672 fel y'i darllenir 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 (p. 32).

(**2**) Mewnosodwyd adran 48(4A) gan baragraff 21 o Atodlen 5 i Ddeddf 1999.

(**3**) OJ Rhif L 31, 1.2.2002, t. 1, fel y'i diwygiwyd ddiwethaf gan Reoliad y Comisiwn (EU) 2017/228 (OJ Rhif L 35, 10.2.2017, t. 10).

2018 No. 913 (W. 179)

FOOD, WALES

The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2018

Made	*30 July 2018*
Laid before the National Assembly for Wales	*1 August 2018*
Coming into force	*6 September 2018*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(2), 17(1) and (2), 26(1)(a), (2)(a) and (3) and 48(1) of the Food Safety Act 1990(**1**).

In accordance with section 48(4A)(**2**) of the Food Safety Act 1990, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency before making these Regulations.

There has been open and transparent public consultation during the preparation and evaluation of these Regulations 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**).

(**1**) 1990 c. 16. Section 16(2) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) ("the 1999 Act"). Section 17(1) and (2) was amended by paragraphs 8 and 12(a) of Schedule 5 to the 1999 Act and S.I. 2011/1043. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Functions formerly exercisable by the "the Ministers" so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act, and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(**3**) OJ No L 31, 1.2.2002, p. 1, as last amended by Commission Regulation (EU) 2017/228 (OJ No L 35, 10.2.2017, p. 10).

Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) (Diwygio) 2018.

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

(3) Daw'r Rheoliadau hyn i rym ar 6 Medi 2018.

Diwygio Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012

2. Mae Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012(**1**) wedi eu diwygio yn unol â rheoliadau 3 i 9.

3. Yn rheoliad 2 (dehongli)—

(a) ym mharagraff (1), cyn y diffiniad o "Rheoliad 10/2011" mewnosoder y diffiniad a ganlyn—

"ystyr "Rheoliad 2018/213" ("*Regulation 2018/213*") yw Rheoliad y Comisiwn (EU) 2018/213 ar y defnydd o bisffenol A mewn farneisiau ac araenau y bwriedir iddynt ddod i gysylltiad â bwyd ac sy'n diwygio Rheoliad (EU) Rhif 10/2011 o ran y defnydd o'r sylwedd hwnnw mewn deunyddiau plastig sy'n dod i gysylltiad â bwyd(**2**);";

(b) ym mharagraff (2), yn lle "neu Reoliad 10/2011" rhodder ", Rheoliad 10/2011 neu Reoliad 2018/213".

4. Yn rheoliad 14(1) (troseddau mynd yn groes i ddarpariaethau penodedig yn Rheoliad 10/2011), yn lle "ac Erthygl 6 o Reoliad y Comisiwn (EU) 2018/831," rhodder ", Erthygl 2 o Reoliad y Comisiwn (EU) 2018/831(**3**) ac Erthygl 6 o Reoliad 2018/213(**4**),".

5. Ar ôl rheoliad 17 (awdurdodau cymwys at ddibenion Rheoliad 1895/2005) mewnosoder—

Title, application and commencement

1.—(1) The title of these Regulations is the Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 6 September 2018.

Amendment of the Materials and Articles in Contact with Food (Wales) Regulations 2012

2. The Materials and Articles in Contact with Food (Wales) Regulations 2012(**1**) are amended in accordance with regulations 3 to 9.

3. In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of "Regulation 10/2011", insert the following definition—

""Regulation 2018/213" ("*Rheoliad 2018/213*") means Commission Regulation (EU) 2018/213 on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No 10/2011 as regards the use of that substance in plastic food contact materials(**2**);";

(b) in paragraph (2), for "or Regulation 10/2011" substitute ", Regulation 10/2011 or Regulation 2018/213".

4. In regulation 14(1) (offences of contravening specified provisions of Regulation 10/2011), for "and Article 6 of Commission Regulation (EU) 2018/831," substitute ", Article 2 of Commission Regulation (EU) 2018/831(**3**) and Article 6 of Regulation 2018/213(**4**),".

5. After regulation 17 (competent authorities for the purposes of Regulation 1895/2005) insert—

(**1**) O.S. 2012/2705 (Cy. 291), a ddiwygiwyd gan O.S. 2017/832 (Cy. 202).
(**2**) OJ Rhif L 41, 14.2.2018, t. 6.
(**3**) Rheoliad y Comisiwn (EU) 2018/831 sy'n diwygio Rheoliad (EU) Rhif 10/2011 ar ddeunyddiau ac eitemau plastig y bwriedir iddynt ddod i gysylltiad â bwyd (OJ Rhif L 140, 6.6.2018, t. 35). Mae Erthygl 2 yn darparu y caiff deunyddiau ac eitemau plastig sy'n cydymffurfio â Rheoliad 10/2011 fel yr oedd yn gymwys cyn i Reoliad 2018/831 ddod i rym ar 26 Mehefin 2018 gael eu rhoi ar y farchnad tan 26 Mehefin 2019 ac y cânt aros ar y farchnad ar ôl y dyddiad hwnnw nes i'r stociau gael eu disbyddu.
(**4**) Mae Erthygl 6 yn darparu y caiff deunyddiau ac eitemau plastig a roddwyd ar y farchnad yn gyfreithlon cyn 6 Medi 2018 aros ar y farchnad nes i'r stociau gael eu disbyddu.

(**1**) S.I. 2012/2705 (W. 291), amended by S.I. 2017/832 (W. 202).
(**2**) OJ No L 41, 14.2.2018, p. 6.
(**3**) Commission Regulation (EU) 2018/831 amending Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 140, 6.6.2018, p. 35). Article 2 provides that plastic materials and articles complying with Regulation 10/2011 as applicable before the entry into force of Regulation 2018/831 on 26 June 2018 may be placed on the market until 26 June 2019 and may remain on the market after that date until the exhaustion of stocks.
(**4**) Article 6 provides that plastic materials and articles that were lawfully placed on the market before 6 September 2018 may remain on the market until the exhaustion of stocks.

“RHAN 7A

Y gofynion ar gyfer bisffenol A mewn farneisiau ac araenau y bwriedir iddynt ddod i gysylltiad â bwyd

Dehongli Rhan 7A

17A. Yn y Rhan hon mae unrhyw gyfeiriad at Erthygl â rhif yn gyfeiriad at yr Erthygl sy’n dwyn y rhif hwnnw yn Rheoliad 2018/213.

Troseddau mynd yn groes i ddarpariaethau penodedig yn Rheoliad 2018/213

17B. Yn ddarostyngedig i’r darpariaethau trosiannol yn Erthygl 6, mae unrhyw berson sy’n rhoi ar y farchnad ddeunydd neu eitem sy’n methu â chydymffurfio ag Erthygl 2 yn euog o drosedd.

Awdurdodau cymwys at ddibenion Rheoliad 2018/213

17C. Yr awdurdodau cymwys at ddibenion Erthygl 4(3) yw’r Asiantaeth Safonau Bwyd a phob awdurdod bwyd yn ei ardal.”

6. Yn rheoliad 19 (troseddau a chosbau)—

(a) ym mharagraff (2), ar ôl “Rheoliad 10/2011” mewnosoder “, Rheoliad 2018/213”;

(b) ym mharagraff (5)(a), yn lle “neu 16(4)” rhodder “16(4) neu 17B”.

7. Yn rheoliad 24(2) (amddiffyniadau cyffredinol), ar ôl “16(4)” mewnosoder “, 17B”.

8. Yn rheoliad 27(1)(a) (cymhwyso amrywiol ddarpariaethau’r Ddeddf)—

(a) ar ddiwedd paragraff (iv), hepgorer “a”;

(b) ar ôl paragraff (v), mewnosoder—

“(vi) Erthygl 4 o Reoliad 2018/213; a”.

9. Yn Atodlen 2, yn Rhan 1 (addasu adran 10(1)), yn adran 10(1A) fel y’i cymhwysir—

(a) ar ddiwedd paragraff (d), hepgorer “and”;

(b) ar ddiwedd paragraff (e), yn lle “.” rhodder “; and”;

(c) ar ôl paragraff (e), mewnosoder—

“(f) Article 4 of Regulation 2018/213.”

“PART 7A

Requirements for bisphenol A in varnishes and coatings intended to come into contact with food

Interpretation of Part 7A

17A. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 2018/213.

Offences of contravening specified provisions of Regulation 2018/213

17B. Subject to the transitional provisions contained in Article 6, any person who places on the market a material or article that fails to comply with Article 2 is guilty of an offence.

Competent authorities for the purposes of Regulation 2018/213

17C. The competent authorities for the purposes of Article 4(3) are the Food Standards Agency and each food authority in its area.”

6. In regulation 19 (offences and penalties)—

(a) in paragraph (2), after “Regulation 10/2011” insert “, Regulation 2018/213”;

(b) in paragraph (5)(a), for “or 16(4)” substitute “16(4) or 17B”.

7. In regulation 24(2) (general defences), after “16(4)” insert “, 17B”.

8. In regulation 27(1)(a) (application of various provisions of the Act)—

(a) at the end of paragraph (iv), omit “and”;

(b) after paragraph (v), insert—

“(vi) Article 4 of Regulation 2018/213; and”.

9. In Schedule 2, in Part 1 (modification of section 10(1)), in section 10(1A) as applied—

(a) at the end of paragraph (d), omit “and”;

(b) at the end of paragraph (e), for “.” substitute “; and”;

(c) after paragraph (e), insert—

“(f) Article 4 of Regulation 2018/213.”

Vaughan Gething

Ysgrifennydd y Cabinet dros Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru
30 Gorffennaf 2018

Cabinet Secretary for Health and Social Services, one of the Welsh Ministers
30 July 2018

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FOOD, WALES

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