

OFFERYNNAU STATUDOL CYMRU

2009 No. 3379

**Rheoliadau Bwyd (Jeli Cwpan Fach)
(Rheolaeth Frys) (Cymru) 2009**

Cymhwyso amrywiol ddarpariaethau'r Ddeddf etc.

5.—(1) Bydd darpariaethau canlynol y Ddeddf yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiad bod unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf neu Ran ohoni yn cael eu dehngli at ddibenion y Rheoliadau hyn fel cyfeiriad at y Rheoliadau hyn—

- (a) adran 2 (ystyr estynedig “sale” etc.);
- (b) adran 20 (tramgwyddau oherwydd bai person arall);
- (c) adran 21 (amddiffyniad diwydrwydd dyladwy(1)), gyda'r addasiadau pellach—
 - (i) fod is-adrannau (2) i (4) yn gymwys mewn perthynas â thramgwydd o dan reoliad 3(1) a (3) megis y maent yn gymwys i dramgwydd o dan adran 14 neu 15, a
 - (ii) mewn perthynas â thramgwydd o dan reoliad 3(1), cyfrifir fod y cyfeiriad at “sale” yn is-adran (4)(b) yn cynnwys cyfeiriadau at wneud unrhyw weithrediad masnachol;
- (ch) adran 30 (dadansoddi etc. samplau) gyda'r addasiadau pellach—
 - (i) fod y cyfeiriad at “section 29 above” yn is-adran (1) i'w gyfrif yn gyfeiriad at yr is-adran honno fel y'i cymhwysir gan reoliad 5(5), a
 - (ii) yn y diffiniad o “sample” yn is-adran (9) fod y cyfeiriad at “regulations under section 31 below” i'w gyfrif yn gyfeiriad at reoliad 4(2);
- (d) adran 32 (pwerau mynediad), gyda'r addasiad pellach fod y cyfeiriad yn is-adran (1) at “an enforcement authority” i'w gyfrif yn gyfeiriad at awdurdod bwyd;
- (dd) adran 33(1) (rhwystro etc. swyddogion);
- (e) adran 33(2), gyda'r addasiad bod y cyfeiriad at “any such requirement as is mentioned in subsection 1(b) above” i'w gyfrif yn gyfeiriad at unrhyw ofyniad a grybwyllir yn adran 33(1)(b) fel y'i cymhwysir gan is-baragraff (dd);
- (f) adran 35(1)(cosbi tramgwyddau)(2), i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(1) fel y'i cymhwysir gan is-baragraff (dd);
- (ff) adran 35(2) a (3)(3), i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(2) fel y'i cymhwysir gan is-baragraff (e);
- (g) adran 36 (tramgwyddau gan gyrff corfforaethol);
- (ng) adran 36A (tramgwyddau gan bartneriaethau Albanaidd)(4); ac
- (h) adran 44 (amddiffyn swyddogion sy'n gweithredu yn ddiwyll).

(1) Diwygiwyd adran 21 gan [O.S. 2004/3279](#).

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

(3) Diwygiwyd adran 35(3) gan [O.S. 2004/3279](#).

(4) Mewnodoswyd adran 36A gan Ddeddf Safonau Bwyd 1999 ([1999 p.28](#)), Atodlen 5, paragraff 16.

(2) Yn ddarostyngedig i baragraff (3), mae adran 9 o'r Ddeddf (arolygu bwyd amheus ac ymafael ynddo) yn gymwys at ddibenion y Rheoliadau hyn fel pe bai'n darllen fel a ganlyn —

“9.—(1) An authorised officer of a food authority may at all reasonable times inspect any jelly mini-cups which—

- (a) have been sold or are offered or exposed for sale; or
- (b) are in the possession of, or have been deposited with or consigned to, any person for the purpose of sale or of preparation for sale.

(2) Subsections (3) to (8) apply where, whether or not on an inspection carried out under subsection (1), it appears to an authorised officer that—

- (a) any person has carried out commercial operations with respect to controlled jelly mini-cups, in contravention of regulation 3(1) of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009; or
- (b) any person has used any of the relevant food additives in the manufacture of any jelly mini-cups which are intended for human consumption, in contravention of regulation 3(3) of those Regulations.

(3) The authorised officer may either—

- (a) give notice to the person in charge of the jelly mini-cups that, until the notice is withdrawn, the jelly mini-cups or any specified quantity of them—
 - (i) are not to be used for human consumption, and
 - (ii) either are not to be removed or are not to be removed except to some place specified in the notice; or
- (b) seize the jelly mini-cups and remove them in order to have them dealt with by a justice of the peace;

Any person who knowingly contravenes the requirements of a notice under subparagraph(a) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Where the authorised officer exercises the powers conferred by subsection (3)(a) that officer must, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he or she is satisfied that there has been no contravention of regulation 3(1) or (3) of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009 in relation to the jelly mini-cups and—

- (a) if he or she is so satisfied, must forthwith withdraw the notice; and
- (b) if he or she is not so satisfied, must seize the jelly mini-cups and remove them in order to have them dealt with by a justice of the peace.

(5) Where an authorised officer exercises the powers conferred by subsection (3)(b) or (4)(b), that officer must inform the person in charge of the jelly mini-cups of his or her intention to have them dealt with by a justice of the peace and—

- (a) any person who under regulation 3(5) of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009 might be liable to a prosecution in respect of the jelly mini-cups is, if he or she attends before the justice of the peace by whom the jelly mini-cups fall to be dealt with, entitled to be heard and to call witnesses; and
- (b) that justice of the peace may, but need not, be a member of the court before which any person is proceeded against for an offence consisting of a contravention of regulation 3(1) or (3) of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009 in relation to those jelly mini-cups.

(6) If it appears to a justice of the peace, on the basis of such evidence as the justice of the peace considers appropriate in the circumstances, that any person has contravened regulation 3(1) or (3) of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009 in relation to any jelly mini-cups falling to be dealt with by the justice of the peace under this section, the justice of the peace must condemn the jelly mini-cups and order—

- (a) the jelly mini-cups to be destroyed or to be so disposed of as to prevent them from being used for human consumption; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the jelly mini-cups.

(7) If a notice under subsection (3)(a) is withdrawn, or the justice of the peace by whom any jelly mini-cups fall to be dealt with under this section refuses to condemn them, the food authority must compensate the owner of the jelly mini-cups for any depreciation in their value resulting from the action taken by the authorised officer.

(8) Any disputed question as to the right to or the amount of any compensation payable under subsection (7) is to be determined by arbitration.

(9) For the purposes of—

- (a) subsection (2)(a), any jelly mini-cups which contain any of the relevant food additives are presumed until the contrary is proved to be controlled jelly mini-cups; and
- (b) subsection (2)(b), any jelly mini-cups are presumed until the contrary is proved to be intended for human consumption.”.

(3) Bydd yr ymadroddion “food authority”, “jelly mini-cups”, “controlled jelly mini-cups”, “the relevant food additives” a “for human consumption”, a ddefnyddir yn adran 9 o'r Ddeddf i'r graddau y mae'n gymwys at ddibenion y Rheoliadau hyn yn rhinwedd paragraff (2), at y dibenion hynny, yn dwyn yr ystyron sydd i'r ymadroddion hynny yn y Rheoliadau hyn.

(4) Mae adran 2 o'r Ddeddf (ystyr estynedig “sale” etc.) yn gymwys mewn perthynas ag adran 9 o'r Ddeddf i'r graddau y mae'n gymwysat ddibenion y Rheoliadau hyn yn rhinwedd paragraff (2).

(5) Mae adran 29 o'r Ddeddf (caffael samplau) yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiadau canlynol—

- (a) yn lle'r geiriau “an enforcement authority” rhodder y geiriau “a food authority”;
- (b) yn lle is-adran (b)(ii) rhodder y ddarpariaeth a ganlyn—

“(ii) is found by that person on or in any premises which he or she is authorised to enter pursuant to section 32 as applied for the purposes of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009 by regulation 5(1)(e) of those Regulations;”;

- (c) hepgorer is-adran (c) ; ac

(ch) yn lle'r geiriau “any of the provisions of this Act or of regulations or orders made under it” yn is-adran (d) rhodder y geiriau “the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009”.

(6) Mae Rheoliad 9(1) o Reoliadau 1990 yn gymwys at ddibenion y Rheoliadau megis petai'n darllen fel a ganlyn—

“(1) Where a sample procured under section 29 of the Act as applied by regulation 5(5) of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009 has been analysed or examined pursuant to regulation 4(2) of those Regulations, the owner is entitled on request to be supplied with a copy of the certificate of analysis or examination by the

authority which, by virtue of regulation 4(1) of those Regulations, has the duty of enforcing them.”.