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WELSH STATUTORY INSTRUMENTS

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**2014 No. 2303**

**The Food Information (Wales) Regulations 2014**

**Title, application and commencement**

- 1.—(1) The title of these Regulations is the Food Information (Wales) Regulations 2014.
- (2) These Regulations apply in relation to Wales.
- (3) Except as provided for in paragraphs (4) to (6), these Regulations come into force on 13 December 2014.
- (4) For the purposes of the following provisions, these Regulations come into force on 19 September 2014—
- (a) regulation 4;
  - (b) regulation 12 and Schedule 4 so far as (by applying, with some modifications, specified provisions of the Act) they enable an improvement notice to be served on a person requiring that person to comply with the provision of FIC specified in Part 1 of Schedule 5 and an appeal against such a notice to be made and dealt with, and make the failure to comply with such an improvement notice an offence;
  - (c) regulation 14 so far as it relates to Part 1 of Schedule 7;
  - (d) Schedule 2;
  - (e) Part 1 of Schedule 5; and
  - (f) Part 1 of Schedule 7.
- (5) For the purposes of the following provisions, these Regulations come into force on 13 December 2016—
- (a) Part 3 of Schedule 5; and
  - (b) regulation 12 and Schedule 4 so far as (by applying, with some modifications, specified provisions of the Act) they enable an improvement notice to be served on a person requiring that person to comply with the provision of FIC specified in Part 3 of Schedule 5 and an appeal against such a notice to be made and dealt with, and make the failure to comply with such an improvement notice an offence.
- (6) For the purposes of Part 2 of Schedule 6, and regulation 13 so far as it relates to that Part of Schedule 6, these Regulations come into force on 13 December 2018.

**Interpretation**

- 2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990;

“Directive 1999/2/EC” (“*Cyfarwyddeb 1999/2/EC*”) means Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation<sup>(1)</sup>;

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(1) OJ No L 66, 13.3.1999, p 16, last amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ No L 311, 21.11.2008, p 1).

“FIC” (“*FIC*”) means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004;

“final consumer” (“*defnyddiwr terfynol*”) has the meaning given in point 18 of Article 3 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;

“food authority” (“*awdurdod bwyd*”) means—

- (a) a county council;
- (b) a county borough council;

“food business operator” (“*gweithredwr busnes bwyd*”) has the meaning given in point 3 of Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council;

“mass caterer” (“*arhwywr mawr*”) has the meaning given in Article 2(2)(d) and “mass caterers” (“*arhwywyr mawr*”) is to be construed accordingly;

“means of distance communication” (“*cyfrwng cyfathrebu o hirbell*”) has the meaning given in Article 2(2)(u);

“offered for sale” (“*a gynigir i’w werthu*”) has the same meaning as in Article 44 and “offers for sale” (“*cynnig gwerthu*”) is to be construed accordingly;

“prepacked food” (“*bwyd wedi ei ragbecynnu*”) has the meaning given in Article 2(2)(e);

“prepacked for direct sale” (“*wedi ei ragbecynnu i’w werthu’n uniongyrchol*”) has the same meaning as in Article 2(2)(e); and

“ready for consumption” (“*parod i’w fwyta*”) has the same meaning as in Article 2(2)(d).

(2) Except as otherwise provided for—

- (a) any reference in these Regulations to an Article is a reference to an Article of FIC, and
- (b) any reference in these Regulations to an Annex is a reference to an Annex to FIC.

(3) Any reference to FIC, or a provision of FIC (including a reference to an Article of, or Annex to, FIC to which paragraph (2) applies), in a provision of these Regulations listed in Schedule 1 is a reference to that provision as amended from time to time.

### **Derogation relating to milk and milk products**

3. The requirements laid down in Articles 9(1) and 10(1) do not apply to milk or milk products presented in a glass bottle where the glass bottle is intended for reuse.

### **Derogation relating to minced meat**

4.—(1) The requirements laid down in point 1 of Part B of Annex VI do not prevent minced meat that does not comply with those requirements being placed on the market using a minced meat designation if the national mark in Part 1 of Schedule 2 appears on the labelling.

(2) Part 2 of Schedule 2 applies to the form of the national mark.

(3) In paragraph (1)—

“on the labelling” (“*ar y label*”) has the same meaning as in point 2 of Part B of Annex VI as read with the definition of “labelling” in Article 2(2)(j);

“placed on the market” (“*ei osod ar y farchnad*”) is to be construed taking into account the meaning of “placing on their national market” as used in point 3 of Part B of Annex VI.

**Foods that are not prepacked etc. containing an allergenic substance or product etc.**

5.—(1) A food business operator who offers for sale a relevant food to which this regulation applies may make available the particulars specified in Article 9(1)(c) (labelling of certain substances or products causing allergies or intolerances) in relation to that food by any means the operator chooses, including, subject to paragraph (3), orally.

(2) This regulation applies to a relevant food that is offered for sale to a final consumer or to a mass caterer otherwise than by means of distance communication and is—

- (a) not prepacked,
- (b) packed on the sales premises at the consumer’s request, or
- (c) prepacked for direct sale.

(3) Where a food business operator intends to make available the particulars specified in Article 9(1)(c) relating to a relevant food orally, and a substance or product listed in Annex II or derived from a substance or product listed in Annex II is used as an ingredient or processing aid in the manufacture or preparation of the food, the operator must indicate that details of that substance or product can be obtained by asking a member of staff.

(4) The indication mentioned in paragraph (3) must be given—

- (a) on a label attached to the food, or
- (b) on a notice, menu, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food.

(5) In relation to a relevant food to which this regulation applies, the Article 9(1)(c) particulars made available by a food business operator must be made available with a clear reference to the name of the substance or product listed in Annex II where—

- (a) the relevant ingredient or processing aid is derived from a substance or product listed in Annex II, and
- (b) the particulars are made available otherwise than by means provided for in FIC.

(6) In this regulation “relevant food” (“*bwyd perthnasol*”) means a food in which an ingredient or processing aid listed in Annex II, or derived from a substance or product listed in Annex II, has been used in its manufacture or preparation and that is still present in the finished product (even if in an altered form).

**Foods that are not prepacked etc. – general requirement to name them**

6.—(1) A food business operator who offers for sale a food to which this regulation applies must provide the particulars required by Article 9(1)(a) (the name of the food) as read with—

- (a) Article 17(1) to (4), and
- (b) in the case of food offered for sale using a minced meat designation as a name—
  - (i) Article 17(5) and point 1 of Part B of Annex VI, and
  - (ii) point 3 of Part B of Annex VI as read with regulation 4 and Schedule 2.

(2) This regulation applies to a food that is offered for sale to a final consumer or a mass caterer and is—

- (a) not prepacked,
- (b) packed on the sales premises at the consumer’s request, or

(c) prepacked for direct sale.

(3) This regulation does not apply to a food prepared to be ready for consumption by a final consumer that is offered for sale to a final consumer by a mass caterer (whether at a mass catering establishment where sales are made in person to a final consumer or by means of distance communication) as part of their business as a mass caterer.

(4) The particulars must appear—

(a) on a label attached to the food, or

(b) on a notice, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food.

(5) Paragraph (4) does not apply in the case of an offer for sale made by means of distance communication.

### **Foods that are not prepacked etc. containing meat and other ingredients**

7.—(1) A food business operator who offers for sale a food to which this regulation applies must provide the particulars required by Article 9(1)(d) (quantity of certain ingredients), as read with Article 22 and Annex VIII, in respect of the ingredients in the food that are meat.

(2) This regulation applies to a food (other than a food specified in Schedule 3) that is offered for sale to a final consumer or a mass caterer, contains meat and any other ingredient and is—

(a) not prepacked,

(b) packed on the sales premises at the consumer's request, or

(c) prepacked for direct sale.

(3) This regulation does not apply to a food prepared to be ready for consumption by a final consumer that is offered for sale to a final consumer by a mass caterer (whether at a mass catering establishment where sales are made in person to a final consumer or by means of distance communication) as part of their business as a mass caterer.

(4) The quantity of meat specified in the particulars mentioned in paragraph (1) is to be determined taking into account the provisions relating to total fat and connective tissue content in point 17 of Part B of Annex VII, including any downward adjustment needed in a case where the total fat and connective tissue content in the food exceeds the values indicated in the table in that point.

(5) The particulars must appear—

(a) on a label attached to the food, or

(b) on a notice, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food.

(6) Paragraph (5) does not apply in the case of an offer for sale made by means of distance communication.

(7) In this regulation—

“meat” (“*cig*”) means the skeletal muscles of mammalian and bird species recognised as fit for human consumption with naturally included or adherent tissue but does not include mechanically separated meat; and

“mechanically separated meat” (“*cig a wahrenir yn fecanyddol*”) has the meaning given in point 1.14 of Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin<sup>(2)</sup>.

(2) OJ No L 139, 30.4.2004, p 55, last amended by Commission Regulation (EU) No 633/2014 (OJ No L 175, 16.6.2014, p 6).

## **Irradiated foods**

**8.**—(1) Any person who places on the market, in bulk, a product to which this paragraph applies must ensure that the relevant indication appears, together with the name of the product, on a display or notice above or beside the container in which the products are placed on the market.

(2) Paragraph (1) applies to—

- (a) a product intended for the ultimate consumer or mass caterers that has been treated with ionising radiation, and
- (b) a product intended for the ultimate consumer or mass caterers that contains an ingredient that has been treated with ionising radiation.

(3) Any person who places on the market a product to which this paragraph applies must ensure that the relevant indication appears in the list of ingredients of that product to indicate the ingredient that has been irradiated.

(4) Paragraph (3) applies to a product intended for the ultimate consumer or mass caterers—

- (a) containing a compound ingredient in a case where an ingredient of that compound ingredient has been treated with ionising radiation, and
- (b) to which, in relation to that compound ingredient, the provisions of point 2 of Part E of Annex VII (setting out cases where a list of ingredients for compound ingredients is not compulsory) would, but for the requirement in paragraph (3), apply.

(5) The relevant indication is the word “irradiated” or the words “treated with ionising radiation”.

(6) This regulation does not apply to—

- (a) a product exposed to ionising radiation generated by measuring or inspection devices, provided the dose absorbed is not greater than 0.01 Gy for inspection devices which utilise neutrons and 0.5 Gy in other cases, at a maximum radiation energy level of 10 MeV in the case of X-rays, 14 MeV in the case of neutrons and 5 MeV in other cases, or
- (b) a product which is prepared for patients requiring sterile diets under medical supervision.

(7) In this regulation—

“in bulk” (“*mewn swmp*”) has the same meaning as in the second sub-paragraph of Article 6(1)

(a) of Directive [1999/2/EC](#);

“ionising radiation” (“*ymbelydredd ìoneiddio*”) has the same meaning as in Directive [1999/2/EC](#);

“places on the market” (“*gosod ar y farchnad*”) is to be construed taking into account the meaning of “placed on the market” as used in Article 2 of Directive [1999/2/EC](#); and

“product” (“*cynnyrch*”) has the same meaning as in Directive [1999/2/EC](#).

## **Enforcement**

**9.** It is the duty of a food authority within its area and a port health authority within its district to enforce these Regulations.

## **Offence**

**10.**—(1) A person is guilty of an offence if the person fails to comply with—

- (a) any provision of FIC specified in paragraph (2), as read with Articles 1(3) and 6 and the first sub-paragraph of Article 54(1), or
- (b) regulation [5\(5\)](#).

(2) The provisions of FIC are—

- (a) Article 9(1)(c), as also read with Annex II;
- (b) Article 21(1)(a), as also read with Articles 9(1)(c) and 18(1) and Annex II;
- (c) the second sub-paragraph of Article 21(1), as also read with Articles 9(1)(c) and 19(1) and Annex II; and
- (d) Article 44(1)(a), as also read with Article 9(1)(c) and regulation 5.

### Penalty

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

### Application of provisions of the Act

**12.—(1)** Subsections (1) and (2) of section 10 of the Act (improvement notices) apply, with the modification (in the case of section 10(1)) specified in Part 1 of Schedule 4, for the purposes of—

- (a) enabling an improvement notice to be served on a person requiring the person to comply with any of the following provisions—
  - (i) a provision of FIC specified in Schedule 5, to the extent provided for in section 10 as applied by paragraph (1) and modified by Part 1 of Schedule 4;
  - (ii) regulation 5(3), (4) or (5);
  - (iii) regulation 6(1) or (4);
  - (iv) regulation 7(1), (4) or (5); or
  - (v) regulation 8(1) or (3); and
- (b) making the failure to comply with a notice referred to in sub-paragraph (a) an offence.

(2) Subsections (1) to (8) of section 32(3) of the Act (powers of entry) apply, with the modifications (in the case of section 32(1)) specified in Part 2 of Schedule 4, for the purposes of enabling an authorised officer of a food authority or a port health authority—

- (a) to exercise a power of entry to ascertain whether there is, or has been, any contravention of a provision of FIC specified in Schedule 5, to the extent provided for in section 32(1) (a) as applied by this paragraph and modified by Part 2 of Schedule 4;
- (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of such a provision; and
- (c) when exercising a power of entry under the provisions of section 32 as applied by this paragraph, to exercise the powers in subsections (5) and (6) relating to records.

(3) Subsections (1) and (6) of section 37 of the Act (appeals) apply, with the modifications specified in Part 3 of Schedule 4, for the purpose of enabling a decision to serve a notice referred to in paragraph (1)(a) to be appealed.

(4) Section 39 of the Act (appeals against improvement notices) applies, with the modifications (in the case of subsections (1) and (3) of section 39) specified in Part 4 of Schedule 4, for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph (1)(a).

(5) The provisions of the Act specified in column 1 of the table in Part 5 of Schedule 4 apply, with the modifications specified in column 2 of that Part, for the purposes of these Regulations.

(6) Paragraphs (1) to (4) are without prejudice to the application of sections 10, 32, 37 and 39 of the Act to these Regulations for purposes other than those specified in those paragraphs.

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(3) Subsections (5) and (6) of section 32 were amended by paragraph 18 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16).

**Revocations**

13. The Regulations listed in Schedule 6 are revoked to the extent specified.

**Consequential and other minor amendments to statutory instruments**

14. Schedule 7 has effect.

28 August 2014

*Mark Drakeford*  
Minister for Health and Social Services, one of  
the Welsh Ministers