
WELSH STATUTORY INSTRUMENTS

2020 No. 220 (W. 49)

FOOD, WALES

The Food Information (Wales) (Amendment) Regulations 2020

<i>Made</i>	- - - -	<i>4 March 2020</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>6 March 2020</i>
<i>Coming into force</i>	- -	<i>1 April 2020</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1) and (2), 26(3) and 48(1) of the Food Safety Act 1990⁽¹⁾ and now vested in them⁽²⁾ and by paragraph 1A of Schedule 2 to the European Communities Act 1972⁽³⁾.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for references to Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers⁽⁴⁾ and to Commission Implementing Regulation (EU) 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food⁽⁵⁾, inserted into the Food Information (Wales) Regulations 2014⁽⁶⁾, to be construed as references to those Regulations as amended from time to time.

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- (1) 1990 c. 16; section 6(4) was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6, the Food Standards Act 1999 (c. 28) (“the 1999 Act”), Schedule 5, paragraph 10(1) and (3) and Schedule 6, and S.I. 2002/794. Section 16(1) was amended by the 1999 Act, Schedule 5, paragraph 8. Section 17(1) was amended by the 1999 Act, Schedule 5 paragraphs 8 and 12(a) and SI 2011/1043. Section 17(2) was amended by the 1999 Act, Schedule 5 paragraphs 8 and 12(b) and SI 2011/1043. Section 26(3) was partially repealed by the 1999 Act, Schedule 6. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act.
- (2) Those functions formerly exercisable by “the Ministers” are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Those functions, 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 further transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (3) 1972 c. 68. The European Communities Act 1972 (“the 1972 Act”) was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”) with effect from exit day. “Exit day” is defined in section 20 of the 2018 Act as 31 January 2020 at 11pm. Despite that repeal the 1972 Act continues to have effect with modifications until IP completion day, by virtue of section 1A of the 2018 Act. Section 1A was inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the 2020 Act”). “IP completion day” is defined in section 1A as 31 December 2020 at 11pm (the meaning given in section 39 of the 2020 Act). Paragraph 1A of Schedule 2 to the 1972 Act was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.
- (4) OJ No L304, 22.11.2001, p. 18, as last amended by Regulation (EU) 2015/2283, OJ NO L327, 11.12.2015, p. 1.
- (5) OJ No L 131, 29.05.2018, p. 8.
- (6) S.I. 2014/2303 (W. 227) as amended by S.I. 2016/664 (W. 181). It is prospectively amended by S.I. 2019/1418 (W. 253) from IP completion day. There are other amending instruments but none is relevant.

The Welsh Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of the Food Safety Act 1990⁽⁷⁾.

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⁽⁸⁾.

Title and commencement

1.—(1) The title of these Regulations is the Food Information (Wales) (Amendment) Regulations 2020.

(2) These Regulations come into force on 1 April 2020.

Amendment of the Food Information (Wales) Regulations 2014

2.—(1) The Food Information (Wales) Regulations 2014 are amended as follows.

(2) In Schedule 5 (improvement notices – specified provisions), after Part 4 insert—

“PART 5

**FIC Provision in relation to which an Improvement
Notice may be served on and from 1 April 2020.**

<i>Provision of FIC</i>	<i>Provisions to be read with the provision of FIC</i>
Article 26(3) (mandatory indication of the country of origin or place of provenance of the primary ingredient where different from that of the food.	Articles 1(3) and 6 of FIC, and Commission Implementing Regulation (EU) 2018/775 ⁽⁹⁾ as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of the food (as amended from time to time).”

4 March 2020

Vaughan Gething
Minister for Health and Social Services, one of
the Welsh Ministers

(7) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999 (c. 28). Those functions conferred on the Secretary of State, 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 further transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(8) OJ No L 31, 1.2.2002, p. 1, as last amended by Regulation (EU) 2019/1243, OJ No L 198, 25.07.2019, p. 241.

(9) OJ NO L 131, 29.05.2018, p. 8.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food Information (Wales) Regulations 2014 ([S.I. 2014/2303 \(W.227\)](#)) (“the 2014 Regulations”). They make provision to implement and enforce in Wales, Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers as read with Commission Implementing Regulation (EU) 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food.

Article 26(3) of Regulation (EU) No 1169/2011 imposes requirements to provide certain information as to the country of origin or place of provenance of the primary ingredient of a food where different to that of the food. Commission Implementing Regulation 2018/775 lays down rules for the application of Article 26(3).

Regulation 2 of these Regulations inserts a new Part 5 into Schedule 5 to the 2014 Regulations. This adds Article 26(3) of Regulation (EU) No 1169/2011 as read with Commission Implementing Regulation (EU) 2018/775 to the list of EU provisions to which the enforcement provisions under Regulation 12 of the 2014 Regulations apply.

These provisions, as amended, enable an improvement notice to be served requiring compliance with Article 26(3) and the provisions of Regulation 2018/775. Failure to comply with the improvement notice is a criminal offence. In addition the enforcement authorities have powers of entry and inspection (including seizure of records) for the purposes of enforcing Article 26(3) as read with the provisions of Regulation 2018/775.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.