OFFERYNNAU STATUDOL CYMRU

2020 Rhif 257 (Cy. 59)

BWYD, CYMRU

Rheoliadau Ychwanegu Fitaminau, Mwynau a Sylweddau Eraill (Cymru) (Diwygio) 2020

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Ychwanegu Fitaminau, Mwynau a Sylweddau Eraill (Cymru) 2007 (O.S. 2007/1984 (Cy. 165)) ("Rheoliadau 2007").

Mae rheoliad 2(1) o Reoliadau 2007 wedi ei ddiwygio fel bod y diffiniad o "y Rheoliad CE" yn cynnwys cyfeiriad at Atodiad 3 (fel y'i diwygir o bryd i'w gilydd) o Reoliad (EC) Rhif 1925/2006 Senedd Ewrop a'r Cyngor dyddiedig 20 Rhagfyr 2006 ar ychwanegu fitaminau a mwynau a sylweddau eraill penodol at fwydydd (OJ Rhif L 404, 30.12.2006, t. 26), fel y'i diwygiwyd ddiwethaf gan Reoliad y Comisiwn (EU) 2019/650 dyddiedig 24 Ebrill 2019 sy'n diwygio Atodiad 3 i Reoliad (EC) Rhif 1925/2006 Senedd Ewrop a'r Cyngor ynghylch Yohimbe (Pausinystalia yohimbe (K. Schum) Pierre ex Beille) (OJ Rhif L 110, 25.4.2019, t. 21).

Mae rheoliad 4(2) o Reoliadau 2007 wedi ei ddiwygio fel ei bod yn drosedd ychwanegu sylwedd a restrir yn Atodiad 3, Rhan A o'r Rheoliad CE at fwydydd, neu ddefnyddio sylwedd o'r fath wrth weithgynhyrchu bwydydd.

Mae rheoliad 4(2) o Reoliadau 2007 wedi ei ddiwygio ymhellach fel ei bod yn drosedd ychwanegu sylwedd a restrir yn Atodiad 3, Rhan B o'r Rheoliad CE at fwydydd, neu ddefnyddio sylwedd o'r fath wrth weithgynhyrchu bwydydd oni bai bod y sylwedd hwnnw yn cael ei ychwanegu neu ei ddefnyddio yn unol â'r amodau a bennir yn y Rhan honno.

WELSH STATUTORY INSTRUMENTS

2020 No. 257 (W. 59)

FOOD, WALES

The Addition of Vitamins, Minerals and Other Substances (Wales) (Amendment) Regulations 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007 (S.I. 2007/1984 (W. 165)) ("the 2007 Regulations").

Regulation 2(1) of the 2007 Regulations is amended so that the definition of "the EC Regulation" includes a reference to Annex 3 (as it may be amended from time to time) of Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ No. L 404, 30.12.2006, p. 26), as last amended by Commission Regulation (EU) 2019/650 of 24 April 2019 amending Annex 3 to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Yohimbe (Pausinystalia yohimbe (K. Schum) Pierre ex Beille) (OJ No. L 110, 25.4.2019, p. 21).

Regulation 4(2) of the 2007 Regulations is amended so that it is an offence to add a substance listed in Annex 3, Part A of the EC Regulation to foods, or to use such a substance in the manufacture of foods.

Regulation 4(2) of the 2007 Regulations is further amended so that it is an offence to add a substance listed in Annex 3, Part B to the EC Regulation to foods, or to use such a substance in the manufacture of foods unless that substance is added or used in accordance with the conditions specified in that Part.

Mae darpariaeth drosiannol newydd (rheoliad 4A) wedi ei mewnosod yn Rheoliadau 2007 i ddarparu nad oes unrhyw drosedd yn cael ei chyflawni mewn cysylltiad ag unrhyw fwyd nad yw'n cydymffurfio â darpariaethau Atodiad 3, Rhan B sy'n ymwneud â thraws-fraster ac eithrio traws-fraster sy'n digwydd yn naturiol mewn braster sy'n dod o anifeiliaid ac a roddir ar y farchnad cyn 1 Ebrill 2021.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

A new transitional provision (regulation 4A) is inserted into the 2007 Regulations to provide that no offence is committed in respect of any food that does not comply with the provisions of Annex 3, Part B relating to trans fat other than trans fat naturally occurring in fat of animal origin and which is placed on the market before 1 April 2021.

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.

OFFERYNNAU STATUDOL CYMRU

2020 Rhif 257 (Cy. 59)

BWYD, CYMRU

Rheoliadau Ychwanegu Fitaminau, Mwynau a Sylweddau Eraill (Cymru) (Diwygio) 2020

Gwnaed *10 Mawrth 2020*

Gosodwyd gerbron Cynulliad Cenedlaethol Cymru *12 Mawrth 2020*

Yn dod i rym *3 Ebrill 2020*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddir gan adrannau 16(1)(a) ac (f), 17(2), 26(1)(a) a (3) ac 48(1) o Ddeddf Diogelwch Bwyd 1990(**1**) ac a freiniwyd bellach ynddynt hwy(**2**) ac adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(**3**) a pharagraff 1A o Atodlen 2 iddi.

(**1**) 1990 p. 16. Amnewidiwyd adran 1(1) a (2) (ystyr "food" ac ymadroddion sylfaenol eraill) gan O.S. 2004/2990. Diwygiwyd adran 16(1) o Ddeddf Diogelwch Bwyd 1990 ("Deddf 1990") gan baragraffau 7 ac 8 o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (p. 28) ("Deddf 1999"). Diwygiwyd adran 17 o Ddeddf 1990 gan baragraffau 7, 8 a 12 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 baragraffau 7 ac 8 o Atodlen 5 i Ddeddf 1999.

(**2**) Trosglwyddwyd y swyddogaethau hynny a oedd gynt yn arferadwy gan "the Ministers" (sef, o ran Cymru a Lloegr ac yn gweithredu ar y cyd, y Gweinidog Amaethyddiaeth, Pysgodfeydd a Bwyd a'r Ysgrifenyddion Gwladol a oedd yn eu trefn yn ymwneud ag iechyd yn Lloegr a bwyd ac iechyd yng Nghymru) 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). Mae'r swyddogaethau hynny yn arferadwy bellach o ran Lloegr gan yr Ysgrifennydd Gwladol yn unol â pharagraff 8 o Atodlen 5 i Ddeddf 1999.

(**3**) 1972 p. 68 ("Deddf 1972"). Diwygiwyd adran 2(2) o Ddeddf 1972 gan adran 27(1)(a) o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51) a chan adran 3(3) o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7) a Rhan 1 o'r Atodlen iddi. Mewnosodwyd paragraff 1A o Atodlen 2 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006. Fe'i diwygiwyd gan adran 3(3) o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 a Rhan 1 o'r Atodlen iddi ac O.S. 2007/1388.

WELSH STATUTORY INSTRUMENTS

2020 No. 257 (W. 59)

FOOD, WALES

The Addition of Vitamins, Minerals and Other Substances (Wales) (Amendment) Regulations 2020

Made *10 March 2020*

Laid before the National Assembly for Wales *12 March 2020*

Coming into force *3 April 2020*

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

(**1**) 1990 c. 16. Section 1(1) and (2) (meaning of "food" and other basic expressions) was substituted by S.I. 2004/2990. Section 16(1) of the Food Safety Act 1990 ("the 1990 Act") was amended by paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) ("the 1999 Act"). Section 17 of the 1990 Act was amended by paragraphs 7, 8, and 12 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 paragraphs 7 and 8 of Schedule 5 to the 1999 Act.

(**2**) Those functions formerly exercisable by "the Ministers" (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales) 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 thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). Those functions are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act.

(**3**) 1972 c. 68 ("the 1972 Act"). Section 2(2) of the 1972 Act was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006. It was amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 and S.I. 2007/1388.

Mae Gweinidogion Cymru wedi eu dynodi at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â mesurau sy'n ymwneud â bwyd (gan gynnwys diod) gan gynnwys cynhyrchu sylfaenol o ran bwyd(**1**). Mae'r Rheoliadau hyn yn gwneud darpariaeth at ddiben a grybwyllir yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972, ac mae'n ymddangos i Weinidogion Cymru ei bod yn hwylus i gyfeiriadau penodol at ddarpariaethau yn Rheoliad (EC) Rhif 2016/128(**2**) gael eu dehongli fel cyfeiriadau at y darpariaethau hynny fel y'u diwygir o bryd i'w gilydd.

Mae Gweinidogion Cymru wedi rhoi sylw i gyngor perthnasol a roddwyd gan yr Asiantaeth Safonau Bwyd yn unol ag adran 48(4A) o Ddeddf Diogelwch Bwyd 1990(**3**).

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(**4**), ymgynghorwyd yn agored ac yn dryloyw â'r cyhoedd wrth lunio a gwerthuso'r Rheoliadau hyn.

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Ychwanegu Fitaminau, Mwynau a Sylweddau Eraill (Cymru) (Diwygio) 2020.

(2) Daw'r Rheoliadau hyn i rym ar 3 Ebrill 2020.

The Welsh Ministers have been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of food(**1**).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 certain references to provisions of Regulation (EC) No 2016/128(**2**) to be construed as references to those provisions as amended from time to time.

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(**3**).

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(**4**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Title and commencement

1.—(1) The title of these Regulations is the Addition of Vitamins, Minerals and Other Substances (Wales) (Amendment) Regulations 2020.

(2) These Regulations come into force on 3 April 2020.

(**1**) O.S. 2005/1971, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
(**2**) Rheoliad (EC) Rhif 1925/2006 Senedd Ewrop a'r Cyngor dyddiedig 20 Rhagfyr 2006 ar ychwanegu fitaminau a mwynau a sylweddau eraill penodol at fwydydd (OJ Rhif L 404, 30.12.2006, t. 26), fel y'i diwygiwyd ddiwethaf gan Reoliad y Comisiwn (EU) 2019/650 dyddiedig 24 Ebrill 2019 sy'n diwygio Atodiad 3 i Reoliad (EC) Rhif 1925/2006 Senedd Ewrop a'r Cyngor ynghylch Yohimbe (Pausinystalia yohimbe (K. Schum) Pierre ex Beille) (OJ Rhif L 110, 25.4.2019, t. 21).
(**3**) Mewnosodwyd adran 48(A) gan baragraff 21 o Atodlen 5 i Ddeddf 1999.
(**4**) OJ Rhif L 31, 1.2.2002, t.1, fel y'i diwygiwyd ddiwethaf gan Reoliad (EU) 2019/1243 Senedd Ewrop a'r Cyngor dyddiedig 20 Mehefin 2019 sy'n addasu nifer o actau cyfreithiol sy'n darparu ar gyfer defnyddio'r weithdrefn reoleiddiol ynghyd â chraffu i Erthyglau 290 a 291 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd (OJ Rhif L 198, 25.7.2019, t. 241) ac a ddiwygiwyd yn rhagolygol gan O.S. 2019/641.

(**1**) S.I. 2005/1971 to which there are amendments not relevant to these Regulations.
(**2**) Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ No. L 404, 30.12.2006, p. 26), as last amended by Commission Regulation (EU) 2019/650 of 24 April 2019 amending Annex 3 to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Yohimbe (Pausinystalia yohimbe (K. Schum) Pierre ex Beille) (OJ No. L 110, 25.4.2019, p. 21).
(**3**) Section 48(A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.
(**4**) OJ No. L 31, 1.2.2002, p.1, as last amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (OJ No. L 198, 25.7.2019, p. 241) and prospectively amended by S.I. 2019/641.

Diwygio Rheoliadau Ychwanegu Fitaminau, Mwynau a Sylweddau Eraill (Cymru) 2007

2.—(1) Mae Rheoliadau Ychwanegu Fitaminau, Mwynau a Sylweddau Eraill (Cymru) 2007(**1**) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1) (dehongli), yn y diffiniad o "y Rheoliad CE" ("*the EC Regulation*") yn lle "I neu II" rhodder "1, 2 neu 3".

(3) Yn rheoliad 4(2) (tramgwyddau a chosbau)—

(a) ar ddiwedd is-baragraff (ch) hepgorer "a";

(b) ar ddiwedd is-baragraff (d) yn lle "." rhodder ";";

(c) ar ôl is-baragraff (d) mewnosoder—

"(dd) Erthygl 8(2)(a)(i) (gwahardd ychwanegu sylwedd a restrir yn Atodiad 3, Rhan A at fwydydd neu ei ddefnyddio wrth weithgynhyrchu bwydydd);

(e) Erthygl 8(2)(a)(ii) (gwahardd ychwanegu sylwedd a restrir yn Atodiad 3, Rhan B at fwydydd neu ei ddefnyddio wrth weithgynhyrchu bwydydd oni bai bod y sylwedd hwnnw yn cael ei ychwanegu neu ei ddefnyddio yn unol â'r amodau a bennir yn y Rhan honno)."

(4) Ar ôl rheoliad 4 mewnosoder—

"Darpariaeth drosiannol mewn perthynas â bwyd sy'n cynnwys sylwedd a restrir yn Atodiad 3, Rhan B

4A. Nid oes tramgwydd wedi'i gyflawni o dan baragraff (1) o reoliad 4 yn rhinwedd paragraff (2)(e) o'r rheoliad hwnnw mewn cysylltiad ag ychwanegu sylwedd at unrhyw fwyd neu ei ddefnyddio i weithgynhyrchu unrhyw fwyd os—

(a) yw'r bwyd wedi'i roi ar y farchnad cyn 1 Ebrill 2021; a

(b) yw'r sylwedd o dan sylw yn dod o fewn y cofnod yn Atodiad 3, Rhan B sy'n ymwneud â thraws-fraster ac eithrio traws-fraster sy'n digwydd yn naturiol mewn braster sy'n dod o anifeiliaid."

Amendment of the Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007

2.—(1) The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007(**1**) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of ""the EC Regulation"" ("*y Rheoliad CE*") for "I or II" substitute "1, 2 or 3".

(3) In regulation 4(2) (offences and penalties)—

(a) at the end of sub-paragraph (d) omit "and";

(b) at the end of sub-paragraph (e) for "." substitute ";";

(c) after sub-paragraph (e) insert—

"(f) Article 8(2)(a)(i) (prohibition of the addition of a substance listed in Annex 3, Part A to foods or its use in the manufacture of foods);

(g) Article 8(2)(a)(ii) (prohibition of the addition of a substance listed in Annex 3, Part B to foods or its use in the manufacture of foods unless that substance is added or used in accordance with the conditions specified in that Part)."

(4) After regulation 4 insert—

"Transitional provision in relation to food containing substance listed in Annex 3, Part B

4A. An offence is not committed under paragraph (1) of regulation 4 by virtue of paragraph (2)(g) of that regulation in respect of the addition of a substance to, or its use in the manufacture of, any food if—

(a) the food is placed on the market before 1 April 2021; and

(b) the substance concerned falls within the entry in Annex 3, Part B relating to trans fat other than trans fat naturally occurring in fat of animal origin."

(**1**) O.S. 2007/1984 (Cy. 165), a ddiwygiwyd gan O.S. 2014/2303 (Cy. 227) ac O.S. 2018/806 (Cy. 162). Mae wedi ei ddiwygio'n rhagolygol gan O.S. 2019/179 (Cy. 45).

(**1**) S.I. 2007/1984 (W. 165), amended by S.I. 2014/2303 (W. 227) and S.I. 2018/806 (W. 162). It is prospectively amended by S.I. 2019/179 (W. 45).

Vaughan Gething

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru
10 Mawrth 2020

Minister for Health and Social Services, one of the Welsh Ministers
10 March 2020

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