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WELSH STATUTORY INSTRUMENTS

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**2020 No. 295 (W. 67)**

**FOOD, WALES**

**The Food Information (Wales)  
(Amendment) (No. 2) Regulations 2020**

<i>Made</i>	- - - -	<i>13 March 2020</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>17 March 2020</i>
<i>Coming into force</i>	- -	<i>1 October 2021</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(e), 26(3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup>, and, in relation to regulation 2(3), (5) and (8), by paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(2)</sup>.

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<sup>(3)</sup>, inserted into the Food Information (Wales) Regulations 2014<sup>(4)</sup> by regulation 2(3) and (5) of these Regulations, to be construed as references to that EU Regulation as amended from time to time.

So far as these Regulations are made in exercise of powers under the Food Safety Act 1990, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A)<sup>(5)</sup> of that Act.

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,

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- (1) 1990 c. 16. Section 16(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) (“the 1999 Act”). 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. 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 subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (2) 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 (c. 51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7) and S.I. 2007/1388.
- (3) OJ No L 304, 22.11.2011, p. 18, last amended by Regulation (EU) 2015/2283 (OJ No 327, 11.12.2015, p. 1).
- (4) S.I. 2014/2303 (W. 227), amended by S.I. 2016/664 (W. 181); there are other amending instruments but none is relevant.
- (5) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(6)</sup>.

### **Title and commencement**

1.—(1) The title of these Regulations is the Food Information (Wales) (Amendment) (No. 2) Regulations 2020.

(2) These Regulations come into force on 1 October 2021.

### **Amendment of the Food Information (Wales) Regulations 2014**

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

(2) In regulation 5 (foods that are not prepacked etc. containing an allergenic substance or product etc.), in paragraph (2)—

(a) in sub-paragraph (a), after “prepacked,” insert “or”;

(b) in sub-paragraph (b), for “, or” substitute “.”;

(c) omit sub-paragraph (c).

(3) After regulation 5, insert—

#### **“Foods that are prepacked for direct sale – duty to list ingredients**

5A.—(1) A food business operator who offers for sale a food to which this regulation applies must provide directly on the package or on a label attached to the package the particulars required by the following—

(a) Article 9(1)(b) (list of ingredients), as read with—

(i) Article 13(1) to (3),

(ii) Article 15,

(iii) Article 16(2), so far as it relates to the particulars required by Article 9(1)(b),

(iv) Article 17, as read with Parts A and C of Annex 6 and, in the case of an ingredient using a minced meat designation as a name, the following points of Part B of Annex 6—

(aa) point 1, and

(bb) point 3, as read with regulation 4 and Schedule 2,

(v) Article 18, as read with Annex 7 and paragraph (1)(a)(iv) of this regulation,

(vi) Article 19(1), and

(vii) Article 20;

(b) Article 9(1)(c) (labelling of certain substances or products causing allergies or intolerances) as read with Article 21(1) and Annex 2.

(2) This regulation applies to a food that—

(a) is offered for sale to a final consumer or to a mass caterer otherwise than by means of distance communication, and

(b) is prepacked for direct sale.”

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(6) OJ No L 31, 1.2.2002, p. 1, last amended by Regulation (EU) No 2019/1243 (OJ No L 198, 25.7.2019, p. 241).

(4) In regulation 6 (foods that are not prepacked etc. – general requirement to name them), in paragraph (2)—

- (a) in sub-paragraph (a), after “prepacked,” insert “or”;
- (b) in sub-paragraph (b), for “, or” substitute “.”;
- (c) omit sub-paragraph (c).

(5) After regulation 6, insert—

**“Foods that are prepacked for direct sale – general requirement to name them**

**6A.—**(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),
- (b) Part A of Annex 6, and
- (c) in the case of food offered for sale using a minced meat designation as a name—
  - (i) Article 17(5),
  - (ii) point 1 of Part B of Annex 6, and
  - (iii) point 3 of Part B of Annex 6, as read with regulation 4 and Schedule 2.

(2) This regulation applies to a food that—

- (a) is offered for sale to a final consumer or to a mass caterer, and
- (b) is prepacked for direct sale.

(3) The particulars in paragraph (1) must be provided directly on the package or on a label attached to the package, except in the case of an offer for sale made by means of distance communication.”

(6) In regulation 10(1) (offence)—

- (a) in sub-paragraph (b), omit “or”;
- (b) after sub-paragraph (b) insert—

“(ba) regulation 5A(1)(b); or”.

(7) In regulation 12 (application of provisions of the Act), in paragraph (1)(a)—

- (a) after paragraph (ii), insert—

“(iia) regulation 5A(1);”;
- (b) after paragraph (iii), insert—

“(iia) regulation 6A(1) or (3);”.

(8) In Schedule 1 (provisions of these Regulations that contain ambulatory references to FIC or Regulation 828/2014 by virtue of regulation 2(3)), insert the following entries into the appropriate places—

“Regulation 5A(1)”;

“Regulation 6A(1)”.

(9) In Schedule 4 (application and modification of provisions of the Act), in Part 1, in paragraph 1, in the modified section 10(1A)(d)—

- (a) after sub-paragraph (i) insert—

“(ia) regulation 5A(1);”;
- (b) after sub-paragraph (ii) insert—

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“(ia) regulation 6A(1) or (3);”.

13 March 2020

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Food Information (Wales) Regulations 2014 ([S.I. 2014/2303 \(W. 227\)](#)).

New regulation 5A, inserted by regulation 2(3) of this instrument, provides that food that is prepacked for direct sale, whether supplied to a final consumer or to a mass caterer, must have a list of ingredients, including allergen information, provided directly on the package or on a label attached to the package. There is an exemption for packaging or containers the largest surface of which has an area of less than 10cm<sup>2</sup>. There is also an exemption where an offer for sale is made by means of distance communication.

New regulation 6A, inserted by regulation 2(5) of this instrument, provides that food that is prepacked for direct sale, whether supplied to a final consumer or to a mass caterer, must have the name of the food provided directly on the package or on a label attached to the package. There is an exemption where an offer for sale is made by means of distance communication.

Regulation 2(2) and (4) amends regulations 5 and 6 of the Food Information (Wales) Regulations 2014 so that those provisions no longer apply to food that is prepacked for direct sale.

Regulation 2(6), (7) and (9) amends the enforcement provisions of the Food Information (Wales) Regulations 2014 to reflect the insertion of new regulations 5A and 6A.

These Regulations were notified in draft to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council) laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society Services (OJ No L 241, 17.9.2015, p. 1).

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, 11<sup>th</sup> Floor, Southgate House, Wood Street, Cardiff, CF10 1EW or from the Agency's website at [www.food.gov.uk](http://www.food.gov.uk).