
WELSH STATUTORY INSTRUMENTS

2005 No. 3292

The Food Hygiene (Wales) Regulations 2005

PART I

PRELIMINARY

Title, commencement and application

1. The title of these Regulations is the Food Hygiene (Wales) Regulations 2005, they come into force on 1 January 2006 and they apply in relation to Wales.

Interpretation

2.—(1) In these Regulations —

“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990(1);

“the Agency” (“*yr Asiantaeth*”) means the Food Standards Agency;

“authorised officer” (“*swyddog awdurdodedig*”), in relation to an enforcement authority, means any person (whether or not an officer of the authority) who is authorised by them in writing, either generally or specially, to act in matters arising under the Hygiene Regulations;

“the Community Regulations” (“*Rheoliadau'r Gymuned*”) means Regulation 852/2004, Regulation 853/2004 and Regulation 854/2004;

“enforcement authority” (“*awdurdod gorfodi*”) means the authority which, by virtue of regulation 5, is responsible for enforcing and executing the Hygiene Regulations;

“food authority” (“*awdurdod bwyd*”) has the meaning that it bears by virtue of section 5(1A) of the Act;

“the Hygiene Regulations” (“*y Rheoliadau Hylendid*”) means these Regulations and the Community Regulations;

“premises” (“*mangre*”) includes any establishment, any place, vehicle, stall or moveable structure and any ship or aircraft; and

“Regulation 178/2002” (“*Rheoliad 178/2002*”), “Regulation 852/2004” (“*Rheoliad 852/2004*”), “Regulation 853/2004” (“*Rheoliad 853/2004*”), “Regulation 854/2004” (“*Rheoliad 854/2004*”) and “Regulation 882/2004” (“*Rheoliad 882/2004*”) have the meanings respectively given to them in Schedule 1; and

“specified Community provision” (“*darpariaeth Gymunedol benodedig*”) means any provision of the Community Regulations that is specified in column 1 of Schedule 2 and whose subject-matter is described in column 2 of that Schedule.

(2) Subject to paragraph (3), any expression other than one defined in paragraph (1) that is used both in these Regulations and in the Act has the meaning it bears in the Act.

(3) Any expression used both in these Regulations and in Regulation 178/2002 or the Community Regulations has the meaning it bears in Regulation 178/2002 or the Community Regulations as the case may be.

(4) Where, apart from this paragraph, any period of less than seven days which is specified in these Regulations would include any day which is—

(a) a Saturday, a Sunday, Christmas Day or Good Friday; or

(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(2)

that day is excluded from the period.

Presumptions that food is intended for human consumption

3.—(1) The following paragraphs apply for the purposes of these Regulations.

(2) Any food commonly used for human consumption must, if placed on the market or offered, exposed or kept for placing on the market, be presumed, until the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placing on the market for human consumption.

(3) The following, namely —

(a) any food commonly used for human consumption which is found on premises used for the preparation, storage, or placing on the market of that food; and

(b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or placing on the market of that food,

will be presumed, until the contrary is proved, to be intended for placing on the market, or for manufacturing food for placing on the market, for human consumption.

(4) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared will, until the contrary is proved, be presumed to be intended for such use.

Competent authority

4. The competent authority for the purposes of the Community Regulations is the Agency except where it has delegated competencies as provided for in those Regulations.

Enforcement

5.—(1) In respect of any food business operator to whose operations Regulation 852/2004 applies but Regulation 853/2004 does not apply —

(a) the Agency must enforce and execute the Hygiene Regulations insofar as the operator concerned is carrying out primary production and those associated operations listed in paragraph 1 of Part AI of Annex I to Regulation 852/2004 other than the associated operations described in sub-paragraphs (a) and (c) of that paragraph insofar as they concern wild game; and

(b) the food authority in whose area the food business operator carries out his or her operations must enforce and execute the Hygiene Regulations insofar as the operator concerned is carrying out operations which are not enforced and executed by the Agency pursuant to sub-paragraph (a).

(2) In respect of any food business operator to whose operations both Regulation 852/2004 and Regulation 853/2004 apply —

(a) the Agency must enforce and execute the Hygiene Regulations insofar as the operator concerned is carrying out operations in relation to the following establishments and activities —

- (i) slaughterhouses,
- (ii) game handling establishments,
- (iii) cutting plants placing fresh meat on the market, and
- (iv) activities in respect of eggs set out in Chapter I of Section X of Annex III to Regulation 853/2004; and

(b) the Agency or the food authority in whose area the food business operator carries out his or her operations must enforce and execute the Hygiene Regulations insofar as the operator concerned is carrying out operations in relation to any establishment or activity that is not specified in sub-paragraph (a) and is regulated by Regulation 853/2004.

(3) In respect of —

(a) collection centres and tanneries supplying raw material for the production of gelatine intended for human consumption pursuant to paragraph 5 of Chapter I of Section XIV of Annex III to Regulation 853/2004; and

(b) collection centres and tanneries supplying raw material for the production of collagen intended for human consumption pursuant to paragraph 5 of Chapter I of Section XV of Annex III to Regulation 853/2004,

the food authority in whose area the collection centre or tannery concerned is situated must enforce and execute the Hygiene Regulations.

(4) Each food authority must enforce and execute these Regulations in its area in relation to the matters regulated by —

- (a) Schedules 3 to 5; and
- (b) Schedule 6 insofar as it applies in relation to raw milk intended for direct human consumption other than raw cows' milk.

(5) The Agency must enforce and execute these Regulations in relation to the matters regulated by Schedule 6 insofar as it applies in relation to raw cows' milk intended for direct human consumption.