



NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2004 No. 1262 (W.134)

FOOD, WALES

The Food (Jelly Confectionery) (Emergency Control) (Wales) (Amendment) Regulations 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food (Jelly Confectionery) (Emergency Control) (Wales) Regulations 2002 (S.I. 2002/1090) to implement in relation to Wales the Commission Decision of 13 April 2004 suspending the placing on the market and import of jelly mini-cups containing the food additives E400, E401, E402, E403, E404, E405, E406, E407, E407a, E410, E412, E413, E414, E415, E417 and / or E418.

These Regulations extend the prohibitions imposed by regulation 3 of S.I. 2002/1090 (which relate respectively to the carrying out of commercial operations with regard to jelly confectionery containing the food additive E425: Konjac and the use of that additive in the manufacture of jelly confectionery) in relation to jelly mini-cups containing the food additives specified in paragraph 1 above (regulation 2(2)(b) and (d) and (4)). They also make consequential changes to S.I. 2002/1090 in the light of that extension (regulation 2(2)(a), (c) and (d), (3), (5) and (6)).

These Regulations also insert a revised definition of "port health authority" into regulation 2(1) of S.I. 2002/1090 (regulation 2(2)(d)).

No regulatory appraisal has been prepared in relation to these Regulations.

2004 No. 1262 (W.134)

FOOD, WALES

**The Food (Jelly Confectionery) (Emergency Control) (Wales)
(Amendment) Regulations 2004**

Made

4th May 2004

Coming into force

5th May 2004

The National Assembly for Wales, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to food, in exercise of the powers conferred on it by that section makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Food (Jelly Confectionery) (Emergency Control) (Wales) (Amendment) Regulations 2004 and shall come into force on 5th May 2004.

Amendments to the Food (Jelly Confectionery) (Emergency Control) (Wales) Regulations 2002

2.-(1) The Food (Jelly Confectionery) (Emergency Control) (Wales) Regulations 2002(c) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) of regulation 2 (interpretation) -

(a) the definition of "the Commission Decision" shall be deleted;

(b) for the definition of "controlled jelly confectionery" there shall be substituted the following definition -
"controlled jelly confectionery" means -

(a) any jelly confectionery which contains E425 : Konjac : (i) Konjac gum (ii) Konjac glucomannane and which is intended for human consumption; and

(b) any jelly mini-cups which contain any of the relevant food additives and which are intended for human consumption;"

(c) immediately after the definition of "controlled jelly confectionery" there shall be inserted the following definition -

"the first Commission Decision" means Commission Decision 2002/247/EC suspending the placing on the market and import of jelly confectionery containing the food additive E425 : Konjac(d)"; and

(d) for the definition of "port health authority" there shall be substituted the following definitions -

(a) S.I. 2003/2901.

(b) 1972 c. 68.

(c) S.I. 2002/1090.

(d) OJ No. L84, 28.3.2002, p.69.

""port health authority" means in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984(a), a port health authority for that district constituted by order under section 2(4) of that Act;

"the relevant food additives" means the food additives: E400 : alginic acid; E401 : sodium alginate; E402: potassium alginate; E403 : ammonium alginate; E404 : calcium alginate; E405 : propane 1,2-diol alginate; E406 : agar; E407 : carrageenan; E407a : processed eucheama seaweed; E410 : locust bean gum; E412 : guar gum; E413 : tragacanth; E414 : acacia gum; E415 : xanthan gum; E417 : tara gum and E418: gellan gum; and

"the second Commission Decision" means Commission Decision 2004/374/EC of 13 April 2004 suspending the placing on the market and import of jelly mini-cups containing the food additives: E400, E401, E402, E403, E404, E405, E406, E407, E407a, E410, E412, E413, E414, E415, E417 and / or E418(b)."

(3) For paragraph (2) of regulation 2 there shall be substituted the following paragraph -

"(2) Any term used both in these Regulations and in the first Commission Decision or in the second Commission Decision has the same meaning as in the first Commission Decision, or as the case may be, the second Commission Decision."

(4) In regulation 3 (prohibitions) -

(a) immediately after paragraph (2) there shall be inserted the following paragraph -

"(2A) For the purposes of paragraph (1), any jelly mini-cups which contain any of the relevant food additives shall be presumed, until the contrary is proved, to be controlled jelly confectionery.";

(b) immediately after paragraph (3) there shall be inserted the following paragraph -

"(3A) No person shall use any of the relevant food additives in the manufacture of any jelly mini-cups which are intended for human consumption.";

(c) immediately after paragraph (4) there shall be inserted the following paragraph -

"(4A) For the purposes of paragraph (3A) any jelly mini-cups shall be presumed, until the contrary, is proved to be intended for human consumption."; and

(d) in paragraph (5) for the words "paragraph (1) or (3)" there shall be substituted the words "paragraph (1), (3) or (3A)".

(5) In the modified version of section 9 of the Food Safety Act 1990(c) applied by paragraph (2) of regulation 5 (application etc. of various provisions of the Act) -

(a) immediately after subsection (2)(b) there shall be added -

"(c) any person has used any of the relevant food additives in the manufacture of any jelly mini-cups which are intended for human consumption, in contravention of regulation 3(3A) of those Regulations.";

(b) in subsection (5)(b) for the words "regulation 3(1) or (3)" there shall be substituted the words "regulation 3(1), (3) or (3A)";

(c) in subsection (6) for the words "regulation 3(1) or (3)" there shall be substituted the words "regulation 3(1), (3) or (3A)"; and

(d) for subsection (9) there shall be substituted the following subsection -

"(9) For the purposes of -

(a) subsection (2)(a) above, any jelly confectionery which contains E425 : Konjac (i) Konjac gum (ii) Konjac glucomannane shall be presumed, until the contrary is proved, to be controlled jelly confectionery;

(b) subsection (2)(a) above, any jelly mini-cups which contain any of the relevant food additives shall be presumed, until the contrary is proved, to be controlled jelly confectionery;

(c) subsection (2)(b) above, any jelly confectionery shall be presumed, until the contrary is proved, to be intended for human consumption; and

(d) subsection (2)(c) above, any jelly mini-cups shall be presumed, until the contrary, is proved to be

(a) 1984 c.22.

(b) OJ No. L118, 23.4.2004, p.70.

(c) 1990 c.16.

(6) In paragraph (3) of regulation 5 for the words "The expressions "controlled jelly confectionery", "food authority", "jelly confectionery", "port health authority" and "for human consumption"" there shall be substituted the words "The expressions "controlled jelly confectionery", "food authority", "jelly confectionery", "jelly minicups", "port health authority", "the relevant food additives" and "for human consumption"".

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a)

4th May 2004

D.Elis-Thomas

The Presiding Officer of the National Assembly

(a) 1998 c.38.

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