OFFERYNNAU STATUDOL CYMRU

2008 Rhif 1268 (Cy.128)

BWYD, CYMRU

Rheoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2008

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Reoliadau Labelu Bwyd 1996 ("y prif Reoliadau") ymhellach i'r graddau y maent yn gymwys o ran Cymru. Mae'r prif Reoliadau yn rhychwantu Prydain Fawr gyfan.

Mae'r Rheoliadau hyn yn gweithredu yng Nghymru Gyfarwyddeb y Comisiwn Rhif 2007/68/EC (OJ Rhif L310, 28.11.2007, t.11) sy'n diwygio Atodlen IIIa i Gyfarwyddeb 2000/13/EC Senedd Ewrop a'r Cyngor o ran cynhwysion bwyd penodol. Mae'r cynhwysion o dan sylw yn gynhwysion sy'n debygol o achosi adwaith alergaidd mewn rhai defnyddwyr.

Mae'r Rheoliadau yn diwygio'r prif Reoliadau o ran y gofynion labelu ar gyfer bwydydd sy'n cynnwys cynhwysion alergenig ac yn darparu cyfnod trosiannol ar gyfer bwydydd sy'n cael eu marcio, eu labelu neu eu gwerthu cyn 31 Mai 2009.

Mae asesiad rheoleiddiol llawn o'r effaith y bydd yr offeryn hwn yn ei chael ar gostau busnes a'r sector gwirfoddol ar gael oddi wrth yr Asiantaeth Safonau Bwyd, Llawr 11, Southgate House, Wood Street, Caerdydd, CF10 1EW.

WELSH STATUTORY INSTRUMENTS

2008 No. 1268 (W.128)

FOOD, WALES

The Food Labelling (Declaration of Allergens) (Wales) Regulations 2008

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Food Labelling Regulations 1996 ("the principal Regulations") in so far as they apply in relation to Wales. The principal Regulations extend to the whole of Great Britain.

These Regulations implement in Wales Commission Directive No. 2007/68/EC (OJ No. L310, 28.11.2007, p.11) amending Annex IIIa to Directive 2000/13/EC of the European Parliament and of the Council as regards certain food ingredients. The ingredients in question are those likely to cause an allergic reaction in some consumers.

The Regulations amend the principal Regulations in respect of the labelling requirements for foods containing allergenic ingredients, and provide a transitional period for foods that are marked, labelled or sold before 31 May 2009.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Food Standards Agency, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW.

OFFERYNNAU STATUDOL CYMRU

2008 Rhif 1268 (Cy.128)

BWYD, CYMRU

Rheoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2008

Gwnaed	*6 Mai 2008*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*8 Mai 2008*
Yn dod i rym	*31 Mai 2008*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddwyd gan adrannau 16(1)(e), 17(1), 26(1)(a), a (48)(1) o Ddeddf Diogelwch Bwyd 1990(**1**).

Yn unol ag adran 48(4A) o'r Ddeddf honno, maent wedi rhoi sylw i gyngor perthnasol a roddwyd iddynt gan yr Asiantaeth Safonau Bwyd.

(**1**) 1990 p.16. Amnewidiwyd adran 1(1) a (2) (diffiniad o "food") gan O.S. 2004/2990. Diwygiwyd adrannau 17 a 48 gan baragraffau 12 a 21 yn y drefn honno o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (1999 p.28) ("Deddf 1999"). Diwygiwyd adran 48 hefyd gan O.S. 2004/2990. Diwygiwyd adran 53(2) gan baragraff 19 o Atodlen 16 i Ddeddf Dadreoleiddio a Chontractio Allan 1994 (1994 p.40), Atodlen 6 i Ddeddf 1999 ac O.S. 2004/2990.

Mae swyddogaethau a oedd gynt yn arferadwy gan "the Ministers" (sef, o ran Cymru a Lloegr a chan weithredu ar y cyd, y Gweinidog dros Amaethyddiaeth, Pysgodfeydd a Bwyd a'r Ysgrifenyddion Gwladol cyfrifol am iechyd yn Lloegr a bwyd ac iechyd yng Nghymru, ac o ran yr Alban, yr Ysgrifennydd Gwladol) bellach yn arferadwy yn Lloegr gan yr Ysgrifennydd Gwladol yn unol â pharagraff 8 o Atodlen 5 i Ddeddf 1999. Trosglwyddwyd swyddogaethau "the Ministers" i'r graddau yr oeddent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) fel y'i darllenir ag adran 40(3) o Ddeddf 1999 a throsglwyddwyd hwy wedi hynny i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru (p.32). Trosglwyddwyd y swyddogaethau hynny i'r graddau yr oeddent yn arferadwy o ran yr Alban i Weinidogion yr Alban gan adran 53 o Ddeddf yr Alban 1998 (1998 p.46) fel y'i darllenir ag adran 40(2) o Ddeddf 1999.

WELSH STATUTORY INSTRUMENTS

2008 No. 1268 (W.128)

FOOD, WALES

The Food Labelling (Declaration of Allergens) (Wales) Regulations 2008

Made	*6 May 2008*
Laid before the National Assembly for Wales	*8 May 2008*
Coming into force	*31 May 2008*

The Welsh Minsters make the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990(**1**).

In accordance with section 48(4A) of that Act, they have had regard to relevant advice given by the Food Standards Agency.

(**1**) 1990 c.16. Section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28) ("the 1999 Act). Section 48 was also amended by S.I. 2004/2990. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c.40), Schedule 6 to the 1999 Act and S.I. 2004/2990.

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 and, in relation to Scotland, the Secretary of State) are now exercisable in England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Functions of "the Ministers" so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (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 so far as exercisable in relation to Scotland were transferred to the Scottish Ministers 53 of the Scotland Act 1998 (1998 c.46) as read with section 40(2) of the 1999 Act.

Fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor, sy'n gosod egwyddorion a gofynion cyffredinol cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch bwyd(**1**), cafwyd ymgynghori agored a thryloyw â'r cyhoedd yn ystod cyfnod paratoi a gwerthuso'r Rheoliadau hyn.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2008 a deuant i rym ar 31 Mai 2008.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Diwygio Rheoliadau Labelu Bwyd 1996

2.—(1) Mae Rheoliadau Labelu Bwyd 1996(**2**) wedi eu diwygio i'r graddau y maent yn gymwys o ran Cymru yn unol â pharagraffau (2) i (7).

(2) Yn rheoliad 2(1) (dehongli), yn y diffiniad o "Directive 2000/13" yn lle'r geiriau "Commission Directive 2005/26/EC" hyd at y diwedd, rhodder "Commission Directive 2007/68/EC amending Annex IIIa to Directive 2000/13/EC of the European Parliament and of the Council as regards certain food ingredients(**3**);".

(3) Yn rheoliad 13(8)(c)—

(a) hepgorer y geiriau "paragraphs 1 to 11 of"; a

(b) hepgorer y darn sy'n dechrau gyda'r geiriau "other than" ac yn gorffen gyda'r geiriau "that allergenic ingredient".

(4) Yn rheoliad 34B(1)—

(a) yn lle'r geiriau "paragraphs (2) and (3)" rhodder "paragraff (2)"; a

(b) hepgorer y geiriau "paragraphs 1 to 11 of".

(5) Yn rheoliad 34B(2)(b)—

(a) hepgorer y geiriau "subject to paragraph (3) of this regulation,"; a

(b) hepgorer y geiriau "paragraphs 1 to 11 of".

(**1**) OJ Rhif L31, 1.2.2002, t.1. Diwygiwyd y Rheoliad hwnnw ddiwethaf gan Reoliad (EC) Rhif 575/2006 (OJ Rhif L100, 8.4.2006, t.3).

(**2**) O.S. 1996/1499, fel y'i diwygiwyd ddiwethaf gan O.S. 2007/3379 (Cy.301). Mewnosodwyd rheoliad 34B ac Atodlen AA1 gysylltiedig gan O.S. 2004/3022 (Cy.261). Diwygiwyd rheoliad 34B gan O.S. 2005/2835 (Cy.200); diwygiwyd Atodlen AA1 gan O.S. 2007/3379 (Cy.301). Mewnosodwyd paragraff (13) o reoliad 50 gan O.S. 2005/1309 (W.91), a pharagraff (14) o'r rheoliad hwnnw gan O.S. 2007/3379 (Cy.301).

(**3**) OJ Rhif L310, 28.11.207, t.11.

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

Title, commencement and application

1.—(1) The title of these Regulations is the Food Labelling (Declaration of Allergens) (Wales) Regulations 2008 and they come into force on 31 May 2008.

(2) These Regulations apply in relation to Wales.

Amendment of the Food Labelling Regulations 1996

2.—(1) The Food Labelling Regulations 1996(**2**) are amended in so far as they apply in relation to Wales in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation), in the definition of Directive 2000/13 for the words "Commission Directive 2005/26/EC" to the end, substitute "Commission Directive 2007/68/EC amending Annex IIIa to Directive 2000/13/EC of the European Parliament and of the Council as regards certain food ingredients(**3**);".

(3) In regulation 13(8)(c)—

(a) omit the words "paragraphs 1 to 11 of"; and

(b) omit the passage beginning with the words "other than" and ending with the words "that allergenic ingredient".

(4) In regulation 34B(1)—

(a) for the words "paragraphs (2) and (3)" substitute "paragraph (2)"; and

(b) omit the words "paragraphs 1 to 11 of".

(5) In regulation 34B(2)(b)—

(a) omit the words "subject to paragraph (3) of this regulation,"; and

(b) omit the words "paragraphs 1 to 11 of".

(**1**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p.3).

(**2**) S.I. 1996/1499, as last amended by S.I. 2007/3379 (W.301). Regulation 34B and the associated Schedule AA1 were inserted by S.I. 2004/3022 (W.261). Regulation 34B was amended by S.I. 2005/2835 (W.200); Schedule AA1 was amended by S.I. 2007/3379 (W.301). Paragraph (13) of regulation 50 was inserted by S.I. 2005/1309 (W.91), and paragraph (14) of that regulation by S.I. 2007/3379 (W.301).

(**3**) OJ No. L310, 28.11.207, p.11.

(6) Yn rheoliad 50 (darpariaeth drosiannol), ar ôl paragraff (14) mewnosoder y canlynol—

"(15) In any proceedings for an offence under regulation 44(1)(a) it is a defence to prove that—

(a) the food concerned was sold before 31st May 2009 or marked or labelled before that date; and

(b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendments made by regulation 2 of the Food Labelling (Declaration of Allergens) (Wales) Regulations 2008(**1**) had not been in operation when the food was sold.".

(7) Yn lle cynnwys Atodlen AA1 (cynhwysion alergenig) rhodder cynnwys yr Atodlen i'r Rheoliadau hyn.

Dirymu

3. Mae'r Rheoliadau neu ddarpariaethau a ganlyn wedi eu dirymu—

(a) Rheoliad 34B(3) o Reoliadau Labelu Bwyd 1996 ac Atodlen 2A iddynt;

(b) Yr Atodlen i Reoliadau Labelu Bwyd (Diwygio) (Cymru) (Rhif 2) 2004(**2**);

(c) Rheoliadau Labelu bwyd (Diwygio) (Cymru) (Rhif 2) 2005(**3**);

(ch) Rheoliadau Labelu Bwyd (Diwygio) (Cymru) (Rhif 2) (Diwygio) 2005(**4**);

(d) Rheoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2007(**5**).

(**1**) O.S. 2008/1268 (Cy.128).

(**2**) O.S. 2004/3022 (Cy.261).

(**3**) O.S. 2005/2835 (Cy.200).

(**4**) O.S. 2005/3626 (Cy.241).

(**5**) O.S. 2007/3379 (Cy.301).

(6) In regulation 50 (transitional provision), after paragraph (14) insert the following—

"(15) In any proceedings for an offence under regulation 44(1)(a) it is a defence to prove that—

(a) the food concerned was sold before 31st May 2009 or marked or labelled before that date; and

(b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendments made by regulation 2 of the Food Labelling (Declaration of Allergens) (Wales) Regulations 2008(**1**) had not been in operation when the food was sold.".

(7) For the contents of Schedule AA1 (allergenic ingredients) substitute the content of the Schedule to these Regulations.

Revocations

3. The following Regulations or provisions are revoked—

(a) Regulation 34B(3) of, and Schedule 2A to, the Food Labelling Regulations 1996;

(b) The Schedule to the Food Labelling (Amendment) (Wales) (No.2) Regulations 2004(**2**);

(c) The Food Labelling (Amendment) (Wales) (No.2) Regulations 2005(**3**);

(d) The Food Labelling (Amendment) (Wales) (No.2) (Amendment) Regulations 2005(**4**);

(e) The Food Labelling (Declaration of Allergens) (Wales) Regulations 2007(**5**).

(**1**) S.I. 2008/1268 (W.128).

(**2**) S.I. 2004/3022 (W.261).

(**3**) S.I. 2005/2835 (W.200).

(**4**) S.I. 2005/3626 (W.241).

(**5**) S.I. 2007/3379 (W.301).

Gwenda Thomas

O dan awdurdod y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru.

6 Mai 2008

Under authority of the Minister for Health and Social Services, one of the Welsh Ministers

6 May 2008

YR ATODLEN

Rheoliad 2(7)

Cynnwys i'w fewnosod fel Atodlen A1 i Reoliadau Labelu Bwyd 1996

"1. Cereals containing gluten (i.e. wheat, rye, barley, oats, spelt, kamut or their hybridised strains),

except:

(a) wheat-based glucose syrups including dextrose[1];

(b) wheat-based maltodextrins[1] ;

(c) glucose syrups based on barley;

(d) cereals used for making distillates or ethyl alcohol of agricultural origin for spirit drinks and other alcoholic beverages.

2. Crustaceans.

3. Eggs.

4. Fish,

except:

(a) fish gelatine used as a carrier for vitamin or carotenoid preparations;

(b) fish gelatine or isinglass used as a fining agent in beer and wine.

5. Peanuts.

6. Soybeans,

except:

(a) fully refined soybean oil and fat(1);

(b) natural mixed tocopherols (E306), natural D-alpha tocopherol, natural D-alpha tocopherol acetate, natural D-alpha tocopherol succinate from soybean sources;

(c) vegetable oils derived from phytosterols and phytosteral esters from soybean sources;

(d) plant stanol ester produced from vegetable oil sterols from soybean sources.

7. Milk (including lactose),

except:

(a) whey used for making distillates or ethyl alcohol of agricultural origin for spirit drinks and other alcoholic beverages;

(b) lactitol.

8. Nuts, i.e. almonds (*Amygdalus communis* L.), hazelnuts (*Corylus avellana*), walnuts (*Juglans regia*), cashews (*Anacardium occidentale*), pecan nuts (*Carya illinoiesis* (*Wangenh.) K.Koch*), Brazil nuts (*Bertholletia excelsa*), pistachio nuts (*Pistacia vera*),

SCHEDULE

Regulation 2(7)

Content to be inserted as Schedule A1 to the Food Labelling Regulations 1996

"1. Cereals containing gluten (i.e. wheat, rye, barley, oats, spelt, kamut or their hybridised strains),

except:

(a) wheat-based glucose syrups including dextrose[1];

(b) wheat-based maltodextrins[1] ;

(c) glucose syrups based on barley;

(d) cereals used for making distillates or ethyl alcohol of agricultural origin for spirit drinks and other alcoholic beverages.

2. Crustaceans.

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(a) fish gelatine used as a carrier for vitamin or carotenoid preparations;

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6. Soybeans,

except:

(a) fully refined soybean oil and fat(1);

(b) natural mixed tocopherols (E306), natural D-alpha tocopherol, natural D-alpha tocopherol acetate, natural D-alpha tocopherol succinate from soybean sources;

(c) vegetable oils derived from phytosterols and phytosteral esters from soybean sources;

(d) plant stanol ester produced from vegetable oil sterols from soybean sources.

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except:

(a) whey used for making distillates or ethyl alcohol of agricultural origin for spirit drinks and other alcoholic beverages;

(b) lactitol.

8. Nuts, i.e. almonds (*Amygdalus communis* L.), hazelnuts (*Corylus avellana*), walnuts (*Juglans regia*), cashews (*Anacardium occidentale*), pecan nuts (*Carya illinoiesis* (*Wangenh.) K.Koch*), Brazil nuts (*Bertholletia excelsa*), pistachio nuts (*Pistacia vera*),

macadamia nuts and Queensland nuts (*Macadamia terniflora*),

except:

(a) nuts used for making distillates or ethyl alcohol of agricultural origin for spirit drinks and other alcoholic beverages.

9. Celery.
10. Mustard.
11. Sesame seeds.
12. Sulphur dioxide and sulphites at concentrations of more than 10 mg/kg or 10 mg/litre expressed as SO_2 .
13. Lupin.
14. Molluscs.

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[1] The exception only applies to products derived from these products in so far as the process they have undergone is not likely to increase the level of allergenicity assessed by the European Food Safety Authority for the relevant product from which they originated.".

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