OFFERYNNAU STATUDOL CYMRU

2009 Rhif 2880 (Cy.253)

BWYD, CYMRU

Rheoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2009

NODYN ESBONIADOL

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

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

2. Mae'r Rheoliadau hyn yn gweithredu yng Nghymru y diwygiad a wnaed i Gyfarwyddeb 2007/68/EC (OJ Rhif L310, 28.11.2007, t.11) gan Reoliad y Comisiwn Rhif 415/2009//EC (OJ Rhif L125, 21.05.2009, t.52). Mae'r Gyfarwyddeb hon ei hun yn diwygio Atodiad IIIa i Gyfarwyddeb 2000/13/EC Senedd Ewrop a'r Cyngor o ran cynhwysion bwyd penodol (OJ Rhif L109, 6.5.2000, t.29). Y cynhwysion o dan sylw yw'r rhai sy'n debyg o achosi adwaith alergaidd mewn rhai defnyddwyr.

3. Mae'r Rheoliadau yn diwygio'r prif Reoliadau o ran y gofynion labelu ar gyfer bwydydd sy'n cynnwys cynhwysion alergenig, gan gynnwys esemptiadau labelu ar gyfer ffurfiau penodol ar y cynhwysion hynny, a'r rheini'n ffurfiau a broseswyd, drwy estyn o 31 Mai 2009 i 31 Rhagfyr 2010 y cyfnod trosiannol ar gyfer defnyddio lysosym sy'n deillio o wyau ac ar gyfer albwmin (a gynhyrchwyd o wyau) neu gynhyrchion llaeth (casein) fel asiantau diwaddodi mewn gwin ar gyfer gwinoedd sy'n cael eu marcio, eu labelu neu eu gwerthu cyn y dyddiad hwnnw.

WELSH STATUTORY INSTRUMENTS

2009 No. 2880 (W.253)

FOOD, WALES

The Food Labelling (Declaration of Allergens) (Wales) Regulations 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. 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.

2. These Regulations implement in Wales the amendment made to Directive 2007/68/EC (OJ No. L310, 28.11.2007, p.11) by Commission Regulation No. 415/2009/EC (OJ No. L125, 21.05.2009, p.52). This Directive itself amends Annex IIIa to Directive 2000/13/EC of the European Parliament and of the Council as regards certain food ingredients (OJ No. L109, 6.5.2000, p.29). The ingredients in question are those that are likely to cause an allergic reaction in some consumers.

3. The Regulations amend the principal Regulations in respect of the labelling requirements for foods containing allergenic ingredients, including labelling exemptions for certain processed forms of those ingredients, by extending from 31 May 2009 to 31 December 2010 the transitional period for egg-derived lysozyme and for albumin (produced from egg) or milk (casein) products when used as fining agents in wine, in respect of wines that are marked, labelled or sold before that date.

OFFERYNNAU STATUDOL CYMRU

2009 Rhif 2880 (Cy.253)

BWYD, CYMRU

Rheoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2009

Gwnaed	*27 Hydref 2009*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*29 Hydref 2009*
Yn dod i rym	*20 Tachwedd 2009*

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 gan yr Asiantaeth Safonau Bwyd.

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

(**1**) 1990 p.16. Amnewidiwyd adran 1(1) a (2) (y diffiniad o "*food*") gan O.S. 2004/2900. Diwygiwyd adrannau 17 a 48 gan baragraffau 12 a 21, yn ôl eu trefn, o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (p.28), ("Deddf 1999"). Diwygiwyd adran 48 hefyd gan O.S. 2004/2990.

Mae'r swyddogaethau 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 ôl eu trefn, yn ymwneud â bwyd ac iechyd yng Nghymru, ag iechyd yn Lloegr ac, o ran yr Alban, yr Ysgrifennydd Gwladol) yn arferadwy bellach yn Lloegr gan yr Ysgrifennydd Gwladol yn unol â pharagraff 8 o Atodlen 5 i Ddeddf 1999. Cafodd swyddogaethau "*the Ministers*", i'r graddau yr oeddent yn arferadwy o ran Cymru, eu trosglwyddo i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (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). Cafodd y swyddogaethau hynny, i'r graddau yr oeddent yn arferadwy o ran yr Alban, eu trosglwyddo i Weinidogion yr Alban gan adran 53 o Ddeddf yr Alban 1998 (p.46) fel y'i darllenir gydag adran 40(2) o Ddeddf 1999.

WELSH STATUTORY INSTRUMENTS

2009 No. 2880 (W.253)

FOOD, WALES

The Food Labelling (Declaration of Allergens) (Wales) Regulations 2009

Made	*27 October 2009*
Laid before the National Assembly for Wales	*29 October 2009*
Coming into force	*20 November 2009*

The Welsh Ministers 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.

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

(**1**) 1990 c.16. Section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2900. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (c.28), ("the 1999 Act"). Section 48 was also amended by 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 by section 53 of the Scotland Act 1998 (c.46) as read with section 40(2) of the 1999 Act.

bwyd(**1**), cafwyd ymgynghori cyhoeddus agored a thryloyw yn ystod y cyfnod yr oedd y Rheoliadau hyn yn cael eu llunio a'u gwerthuso.

Enwi, cychwyn a chymhwyso

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2009 a deuant i rym ar 20 Tachwedd 2009.

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

Diwygio Rheoliadau Labelu Bwyd 1996

2.–(1) Mae Rheoliadau Labelu Bwyd 1996(**2**) wedi'u diwygio'n unol â pharagraff (2).

(2) Yn rheoliad 50 (darpariaeth drosiannol), yn lle paragraff (15) rhodder y canlynol–

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

(a) in the case of–

(i) wine in which lysozyme is used, or in which albumin (produced from egg) or a milk (casein) product has been used as a fining agent, the food concerned was sold before 31 December 2010 or marked or labelled before that date, or

(ii) any other food, the food concerned was sold before 31 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 2009(**3**) had not been in operation when the food was sold.".

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 2009 and they come into force on 20 November 2009.

(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 accordance with paragraph (2).

(2) In regulation 50 (transitional provision), for paragraph (15) substitute the following–

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

(a) in the case of–

(i) wine in which lysozyme is used, or in which albumin (produced from egg) or a milk (casein) product has been used as a fining agent, the food concerned was sold before 31 December 2010 or marked or labelled before that date, or

(ii) any other food, the food concerned was sold before 31 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 2009(**3**) had not been in operation when the food was sold.".

(**1**) OJ Rhif L31, 1.2.2002, t.1. Diwygiwyd y Rheoliad hwnnw ddiwethaf gan Reoliad y Comisiwn (EC) Rhif 596/2009 Senedd Ewrop a'r Cyngor yn addasu nifer o offerynnau, sy'n ddarostyngedig i'r weithdrefn y cyfeirir ati yn Erthygl 251 o'r Cytuniad, yn ôl Penderfyniad y Cyngor 1999/468 mewn perthynas â'r weithdrefn reoleiddiol gyda chraffu: Addasiad yn ôl y weithdrefn reoleiddiol gyda chraffu– Rhan Pedwar (OJ Rhif L188, 18.7.2009, t.14).

(**2**) O.S. 1996/1499, fel y'i diwygiwyd ddiwethaf gan O.S. 2008/1268 (Cy.128). Mewnosodwyd rheoliadau 13(8)(c) a 34B a'r Atodlen gysylltiedig, sef Atodlen AA1, 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) a chan O.S. 2008/1268 (Cy.128). Mewnosodwyd paragraff (13) o reoliad 50 gan O.S. 2005/1309 (Cy.91), paragraff (14) o'r rheoliad hwnnw gan O.S. 2007/3379 (Cy.301) a pharagraff (15) o'r rheoliad hwnnw gan O.S. 2008/1268 (Cy.128).

(**3**) O.S. 2009/2880 (Cy.253).

(**1**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14).

(**2**) S.I. 1996/1499, as last amended by S.I. 2008/1268 (W.128). Regulations 13(8)(c) and 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) and by S.I. 2008/1268 (W.128). Paragraph (13) of regulation 50 was inserted by S.I. 2005/1309 (W.91), paragraph (14) of that regulation by S.I. 2007/3379 (W.301) and paragraph (15) of that regulation by S.I. 2008/1268 (W.128).

(**3**) S.I. 2009/2880 (W.253).

Dirymu

3. Mae rheoliad 2(6) o Reoliadau Labelu Bwyd (Datgan Alergenau) (Cymru) 2008(**1**) wedi ei ddirymu.

Revocation

3. Regulation 2(6) of the Food Labelling (Declaration of Allergens) (Wales) Regulations 2008(**1**) is revoked.

Gwenda Thomas

Y Dirprwy Weinidog dros Wasanaethau Cymdeithasol, o dan awdurdod y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

Deputy Minister for Social Services, under authority of the Minster for Health and Social Services, one of the Welsh Ministers

27 Hydref 2009

27 October 2009

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

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

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