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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2011 Rhif 1605 (Cy.186)**

**2011 No. 1605 (W.186)**

**BWYD, CYMRU**

**FOOD, WALES**

Rheoliadau Llestri Cegin Plastig  
(Amodau ar Fewnforion o Tsieina)  
(Cymru) 2011

The Plastic Kitchenware  
(Conditions on Imports from  
China) (Wales) Regulations 2011

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

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

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

1. Mae'r Rheoliadau hyn yn darparu ar gyfer gweithredu a gorfodi, mewn perthynas â Chymru, Reoliad y Comisiwn (EU) Rhif 284/2011 sy'n nodi amodau penodol a gweithdrefnau manwl ar gyfer mewnfurio llestri cegin plastig polyamid a melamin sy'n tarddu o Weriniaeth Pobl Tsieina a Rhanbarth Gweinyddol Arbennig Hong Kong, Tsieina neu a anfonwyd oddi yno (OJ Rhif L77, 23.3.2011, t.25) ("Rheoliad y Comisiwn").

1. These Regulations provide for the execution and enforcement in relation to Wales of Commission Regulation (EU) No. 284/2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China (OJ No. L77, 23.3.2011, p.25) ("the Commission Regulation").

2. Mae'r Rheoliadau hyn —

2. These Regulations —

- (a) yn gwahardd rhoi ar y farchnad lestri cegin plastig polyamid a melamin o Hong Kong a Tsieina nad ydynt yn cydymffurfio â'r amodau, neu na fuont yn destun y gwiriadau mewnfurio a'r ardystiad a bennir yn Rheoliad y Comisiwn (*rheoliad 3*);
- (b) yn gwneud torri unrhyw waharddiad a bennir yn rheoliad 3 yn dramgwydd (*rheoliad 4*);
- (c) yn dynodi'r awdurdodau cymwys at ddibenion darpariaethau penodol o Reoliad y Comisiwn (*rheoliad 5*);
- (ch) yn darparu mai dyletswydd awdurdodau bwyd lleol yw gweithredu a gorfodi Rheoliad y Comisiwn a hysbysu'r Asiantaeth Safonau Bwyd os yw dadansoddiad labordy o fewnforion llestri plastig yn dynodi anghydymffurfiaeth â'r Rheoliad hwnnw (*rheoliad 6*);
- (d) yn darparu ar gyfer adennill, oddi ar y mewnforyr, y costau a dynnir gan

- (a) prohibit the placing on the market of polyamide and melamine plastic kitchenware from China and Hong Kong that does not comply with the conditions or has not undergone the import checks and certification specified in the Commission Regulation (*regulation 3*);
- (b) make it an offence to breach any prohibition set out in regulation 3 (*regulation 4*);
- (c) designate the competent authorities for the purposes of certain provisions of the Commission Regulation (*regulation 5*);
- (d) provide that it is the duty of local food authorities to execute and enforce the Commission Regulation and to inform the Food Standards Agency where laboratory analysis of imports of plastic kitchenware indicates non-compliance with that Regulation (*regulation 6*);
- (e) provide for the expenses incurred by food authorities in carrying out the official controls

awdurdodau bwyd wrth gyflawni'r rheolaethau swyddogol sy'n ofynnol gan Reoliad y Comisiwn (*rheoliad 7*);

- (dd) yn pennu'r camau sydd i'w cymryd gan awdurdod bwyd pan nad yw llwyth wedi ei anfon ynghyd â'r dogfennau gofynnol, neu pan ganfyddir nad yw'n cydymffurfio rywfodd arall (*rheoliad 8*);
- (e) yn darparu ar gyfer hawl mewnforiwr i apelio yn erbyn penderfyniad gan swyddog awdurdodedig o awdurdod bwyd i gymryd camau o dan reoliad 8 (*rheoliad 9*);
- (f) yn darparu ar gyfer atal dros dro fannau cyflwyno cyntaf dynodedig (*rheoliad 10*); ac
- (ff) yn cymhwyso, gydag addasiadau, ddarpariaethau penodedig o Ddeddf Diogelwch Bwyd 1990 at ddibenion y Rheoliadau hyn a Rheoliad y Comisiwn (*rheoliad 11*).

3. Mae'r Rheoliadau hyn yn gwneud yn ofynnol bod yr Asiantaeth Safonau Bwyd yn adolygu'r modd y'u gweithredir a'u heffaith, ac yn cyhoeddi adroddiad, o fewn 5 mlynedd wedi i'r Rheoliadau ddod i rym, ac o fewn pob 5 mlynedd wedi hynny. Yn dilyn adolygiad, mater i Weinidogion Cymru, ar ôl cael cyngor gan yr Asiantaeth Safonau Bwyd, fydd penderfynu a ddylai'r Rheoliadau barhau mewn grym fel y maent, neu a ddylid eu diwygio neu'u dirymu (*rheoliad 12*). Byddai angen offeryn pellach i ddirymu neu ddiwygio'r Rheoliadau.

4. Paratowyd asesiad effaith rheoleiddiol ynglŷn â chostau a buddion tebygol cydymffurfio â'r Rheoliadau hyn, ac y mae ar gael gan yr Asiantaeth Safonau Bwyd, Llawr 11, Tŷ Southgate, Caerdydd, CF10 1EW.

required by the Commission Regulation to be recovered from importers (*regulation 7*);

- (f) specify the measures to be taken by a food authority where a consignment is not accompanied by the required documentation or is otherwise found to be non-compliant (*regulation 8*);
- (g) provide for a right of appeal by an importer against the decision of an authorised officer of a food authority to take measures under regulation 8 (*regulation 9*);
- (h) provide for the suspension of designated first points of introduction (*regulation 10*); and
- (i) apply with modifications specified provisions of the Food Safety Act 1990 for the purposes of these Regulations and the Commission Regulation (*regulation 11*).

3. These Regulations require the Food Standards Agency to review their operation and effect and publish a report within 5 years of their coming into force and within every 5 years after that. Following a review it will fall to the Welsh Ministers, having taken advice from the Food Standards Agency, to consider whether the Regulations should remain as they are or be amended or revoked (*regulation 12*). A further instrument would be needed to revoke or amend the Regulations.

4. A regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations and is available from the Food Standards Agency, 11th Floor, Southgate House, Cardiff, CF10 1EW.

**2011 Rhif 1605 (Cy.186)**

**BWYD, CYMRU**

**Rheoliadau Llestri Cegin Plastig  
(Amodau ar Fewnforion o Tsieina)  
(Cymru) 2011**

*Gwnaed* 28 Mehefin 2011

*Gosodwyd gerbron Cynulliad  
Cenedlaethol Cymru* 30 Mehefin 2011

*Yn dod i rym* 1 Gorffennaf 2011

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddir gan adrannau 16(2), 17(2), 26(1)(a) a (3) a 48(1) o Ddeddf Diogelwch Bwyd 1990(1), ac a freinir bellach ynddynt hwy(2).

I'r graddau na ellir gwneud y Rheoliadau hyn o dan y pwerau yn Neddf Diogelwch Bwyd 1990 a bennir uchod, mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir iddynt gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(3).

Mae Gweinidogion Cymru wedi eu dynodi at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â materion sy'n ymwneud â diogelwch bwyd (gan gynnwys diod)(4).

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(1) 1990 p.16, amnewidiwyd adran 1(1) a (2) (diffiniad o "food") gan O.S. 2004/2990. Diwygiwyd adrannau 17 ac 48, yn eu trefn, gan baragraffau 12 ac 21 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, O.S. 2004/2990 ac O.S. 2004/3279.

(2) Trosglwyddwyd 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 eu trefn yn ymwneud ag iechyd yn Lloegr a bwyd ac iechyd yng Nghymru) 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 gydag adran 40(3) o Ddeddf 1999 ac wedyn fe'u trosglwyddwyd i Weiniogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (2006 p.32).

(3) 1972 p.68.

(4) O.S. 2005/1971.

**2011 No. 1605 (W.186)**

**FOOD, WALES**

**The Plastic Kitchenware  
(Conditions on Imports from  
China) (Wales) Regulations 2011**

*Made* 28 June 2011

*Laid before the National Assembly  
for Wales* 30 June 2011

*Coming into force* 1 July 2011

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(2), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990(1), and now vested in them(2).

In so far as these Regulations cannot be made under the powers in the Food Safety Act 1990 specified above, the Welsh Ministers make these Regulations in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(3).

The Welsh Ministers have been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food safety (including drink)(4).

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(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, S.I. 2004/2990 and S.I. 2004/3279.

(2) 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) 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 subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32).

(3) 1972 c.68.

(4) S.I. 2005/1971.

Yn unol ag adran 48(4A) o Ddeddf Diogelwch Bwyd 1990 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 pennu egwyddorion cyffredinol a gofynion cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch bwyd(1), ymgynghorwyd yn agored a thryloyw â'r cyhoedd wrth baratoi a gwerthuso'r Rheoliadau hyn.

## Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Llestri Cegin Plastig (Amodau ar Fewnforion o Tsieina) (Cymru) 2011.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru ac yn dod i rym ar 1 Gorffennaf 2011.

## Dehongli

2.—(1) Yn y Rheoliadau hyn—

ystyr "yr Asiantaeth" ("*the Agency*") yw'r Asiantaeth Safonau Bwyd;

mae i "awdurdod bwyd" ("*food authority*") yr ystyr a roddir i "food authority" yn rhinwedd adran 5(1A) o'r Ddeddf;

ystyr "cynnyrch perthnasol" ("*relevant product*") yw llestri cegin plastig sy'n tarddu o Weriniaeth Pobl Tsieina a Rhanbarth Gweinyddol Arbennig Hong Kong, Tsieina neu a anfonwyd oddi yno;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Diogelwch Bwyd 1990;

ystyr "Rheoliad y Comisiwn" ("*the Commission Regulation*") yw Rheoliad y Comisiwn (EU) Rhif 284/2011 sy'n nodi amodau penodol a gweithdrefnau manwl ar gyfer mewnfario llestri cegin plastig polyamid a melamin sy'n tarddu o Weriniaeth Pobl Tsieina a Rhanbarth Gweinyddol Arbennig Hong Kong, Tsieina neu a anfonwyd oddi yno(2).

(2) Mae i unrhyw ymadrodd, a ddefnyddir yn y Rheoliadau hyn ac y defnyddir yr ymadrodd Saesneg sy'n cyfateb iddo yn Rheoliad y Comisiwn, yr un ystyr yn y Rheoliadau hyn ag a ddygir gan yr ymadrodd

In accordance with section 48(4A) of the Food Safety Act 1990 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 matters of food safety(1), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

## Title, application and commencement

1.—(1) The title of these Regulations is the Plastic Kitchenware (Conditions on Imports from China) (Wales) Regulations 2011.

(2) These Regulations apply in relation to Wales and come into force on 1 July 2011.

## Interpretation

2.—(1) In these Regulations —

"the Act" ("*y Ddeddf*") means the Food Safety Act 1990;

"the Agency" ("*yr Asiantaeth*") means the Food Standards Agency;

"the Commission Regulation" ("*Rheoliad y Comisiwn*") means Commission Regulation (EU) No. 284/2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China(2);

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

"relevant product" ("*cynnyrch perthnasol*") means plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China.

(2) Any expression used in these Regulations and the Commission Regulation has the same meaning in these Regulations as it bears in the Commission Regulation and any reference to a numbered Article is a reference

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

(2) OJ Rhif L77, 23.3.2011, t.25.

(1) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by 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/EC 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) OJ No. L77, 23.3.2011, p.25.

Saesneg cyfatebol yn Rheoliad y Comisiwn; ac y mae unrhyw gyfeiriad at Erthygl â rhif yn gyfeiriad at yr Erthygl sydd â'r rhif hwnnw yn Rheoliad y Comisiwn.

(3) Pan fo unrhyw swyddogaethau o dan y Ddeddf wedi eu priodoli—

- (a) gan orchymyn o dan adran 2 o Ddeddf Iechyd y Cyhoedd (Rheoli Clefydau) 1984 (1), i awdurdod iechyd porthladd; neu
- (b) gan orchymyn o dan adran 6 o Ddeddf Iechyd y Cyhoedd 1936(2), i gyd-fwrdd ar gyfer dosbarth unedig;

rhaid dehongli unrhyw gyfeiriad yn y Rheoliadau hyn at awdurdod bwyd, i'r graddau y mae'r cyfeiriad yn ymwneud â'r swyddogaethau hynny, fel cyfeiriad at yr awdurdod y priodolwyd y swyddogaethau iddo felly.

### **Torri amodau ar fewnforio llestri cegin plastig o Tsieina**

3.—(1) Ni chaiff unrhyw berson roi ar y farchnad yng Nghymru unrhyw gynnyrch perthnasol sydd wedi ei fewnforio i'r Undeb Ewropeaidd ac eithrio drwy gydymffurfio â gofynion Erthygl 3(1), (2) a (3) (amodau mewnforio).

(2) Ni chaiff unrhyw berson roi ar y farchnad yng Nghymru unrhyw gynnyrch perthnasol hyd nes bo—

- (a) y gwiriadau a bennir ym mharagraff 1(a) ac, yn ôl fel y digwydd, paragraff 1(b) o Erthygl 6 (rheolaethau yn y man cyflwyno cyntaf) wedi eu cwblhau; a
- (b) yr awdurdod bwyd wedi rhoi datganiad yn unol ag Erthygl 3(4), sy'n dynodi bod y cynnyrch perthnasol yn cydymffurfio, ac felly'n dderbyniol i'w ryddhau i gylchredeg yn rhydd.

### **Tramgwyddau a chosbau**

4. Mae unrhyw berson sy'n peidio â chydymffurfio â pharagraff (1) neu (2) o reoliad 3 yn euog o dramgwydd ac yn agored—

- (a) o'i gollfarnu'n ddiannod, i ddirwy na fydd yn fwy na'r uchafswm statudol; neu
- (b) o'i gollfarnu ar ddiad, i ddirwy.

### **Awdurdodau cymwys**

5.—(1) Yr awdurdod cymwys at ddibenion Erthyglau 3(1) a (4), 4, 6(1), 7 a 9 yw pob awdurdod bwyd o fewn ei ardal neu'i ddosbarth unedig ei hunan.

to the Article so numbered in the Commission Regulation.

(3) Where any functions under the Act are assigned —

- (a) by an order under section 2 of the Public Health (Control of Disease) Act 1984(1), to a port health authority; or
- (b) by an order under section 6 of the Public Health Act 1936(2), to a joint board for a united district;

any reference in these Regulations to a food authority must be construed, so far as relating to those functions, as a reference to the authority to whom they are so assigned.

### **Breach of conditions on import of plastic kitchenware from China**

3.—(1) No person may place on the market in Wales any relevant product that has been imported into the European Union other than in compliance with the requirements of Article 3(1), (2) and (3) (import conditions).

(2) No person may place on the market in Wales any relevant product until —

- (a) the checks specified in paragraph 1(a) and, as the case may be, paragraph 1(b) of Article 6 (controls at the first point of introduction) have been completed; and
- (b) the food authority has issued a declaration in accordance with Article 3(4) indicating that the relevant product conforms and is thus acceptable for release into free circulation.

### **Offences and penalties**

4. Any person who fails to comply with paragraph (1) or (2) of regulation 3 is guilty of an offence and liable —

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

### **Competent authorities**

5.—(1) The competent authority for the purposes of Articles 3(1) and (4), 4, 6(1), 7 and 9 is each food authority in its area or united district.

(1) 1984 p.22; amnewidiwyd adran 7(3)(d) gan baragraff 27 o Atodlen 3 i Ddeddf Diogelwch Bwyd 1990.

(2) 1936 p.49; rhaid darllen adran 6 ar y cyd â pharagraff 1 o Atodlen 3 i Ddeddf Diogelwch Bwyd 1990.

(1) 1984 c.22; section 7(3)(d) was substituted by paragraph 27 of Schedule 3 to the Food Safety Act 1990.

(2) 1936 c.49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.

(2) Yr awdurdod cymwys at ddiben Erthygl 6(2) yw'r Asiantaeth.

### Gweithredu a gorfodi

6.—(1) Dyletswydd pob awdurdod bwyd o fewn ei ardal neu'i ddsbarth unedig ei hunan yw gweithredu a gorfodi Rheoliad y Comisiwn a'r Rheoliadau hyn.

(2) Rhaid i bob awdurdod bwyd—

- (a) hysbysu'r Asiantaeth ar unwaith ynghylch canlyniadau unrhyw ddadansoddiad labordy y parodd yr awdurdod ei gynnal o dan Erthygl 6(1) os yw canlyniadau'r dadansoddiad hwnnw'n dynodi anghydymffurfiaeth; a
- (b) rhoi i'r Asiantaeth pa bynnag wybodaeth a chymorth y gofynnir amdanynt gan yr Asiantaeth mewn cysylltiad â gweithredu a gorfodi'r Rheoliadau hyn.

(3) Rhaid i Gomisiwn Cyllid a Thollau Ei Mawrhydi gyflawni'r swyddogaethau a roddir i awdurdodau tollau o dan Erthygl 8.

### Treuliau sy'n tarddu o reolaethau swyddogol

7.—(1) Bydd y treuliau a godir yn unol ag Erthygl 27(1) o Reoliad 882/2004, ar fewnforiwr gan awdurdod bwyd mewn cysylltiad â'r gwiriadau a grybwyllir yn Erthygl 6(1), yn daladwy gan y mewnforiwr pan roddir galwad i dalu gan yr awdurdod bwyd mewn ysgrifen.

(2) Pan fo awdurdod bwyd yn canfod anghydymffurfiaeth—

- (a) â gofynion Erthygl 3(1), (2) neu (3) neu Erthygl 4; neu
- (b) yn dilyn y gwiriadau a grybwyllir yn Erthygl 6(1)(b),

bydd y treuliau a godir yn unol ag Erthygl 54(5) o Reoliad 882/2004, ar fewnforiwr gan awdurdod bwyd, yn daladwy gan y mewnforiwr pan roddir galwad i dalu gan yr awdurdod bwyd mewn ysgrifen.

(3) Ym mharagraffau (1) a (2) ac yn rheoliad 8(3), ystyr "Rheoliad 882/2004" ("Regulation 882/2004") yw Rheoliad (EC) Rhif 882/2004 Senedd Ewrop a'r Cyngor ar reolaethau swyddogol a gyflawnir i sicrhau bod cydymffurfedd â'r gyfraith ynglŷn â bwyd anifeiliaid a bwyd, rheolau iechyd anifeiliaid a rheolau lles anifeiliaid yn cael ei wirhau(1).

(2) The competent authority for the purpose of Article 6(2) is the Agency.

### Execution and enforcement

6.—(1) It is the duty of each food authority in its area or united district to execute and enforce the Commission Regulation and these Regulations.

(2) Each food authority must—

- (a) immediately inform the Agency of the results of any laboratory analysis which it has caused to be carried out under Article 6(1) if the results of that analysis indicate non-compliance; and
- (b) give the Agency such information and assistance as it may reasonably request in connection with the execution and enforcement of these Regulations.

(3) The Commission for Her Majesty's Revenue and Customs must carry out the functions given to customs authorities under Article 8.

### Expenses arising from official controls

7.—(1) Expenses charged pursuant to Article 27(1) of Regulation 882/2004 by a food authority to an importer in connection with the checks mentioned in Article 6(1) are payable by the importer on the written demand of the food authority.

(2) Where a food authority identifies non-compliance—

- (a) with the requirements of Article 3(1), (2) or (3) or Article 4; or
- (b) following the checks mentioned in Article 6(1)(b),

expenses charged pursuant to Article 54(5) of Regulation 882/2004 by a food authority to an importer are payable by the importer on the written demand of the food authority.

(3) In paragraph (1) and (2) and in regulation 8(3), "Regulation 882/2004" ("Rheoliad 882/2004") means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(1).

(1) OJ Rhif L165, 30.4.2004, t.1. Pennir y testun diwygiedig mewn cywiriad (OJ Rhif L191, 28.5.2004, t.1). Diwygiwyd y Rheoliad hwn ddiwethaf gan Reoliad y Comisiwn (EU) Rhif 208/2011 sy'n diwygio Atodiad VII i Reoliad (EC) 882/2004 Senedd Ewrop a'r Cyngor a Rheoliadau'r Comisiwn (EC) Rhif 180/2008 ac (EC) Rhif 737/2008 mewn perthynas â rhestrï ac enwau labordai cyfeirio yn yr UE (OJ Rhif L58, 3.3.2011, t.29).

(1) OJ No. L165, 30.4.2004, p. 1. The revised text is set out in a corrigendum (OJ No. L191, 28.5.2004, p.1). This Regulation was last amended by Commission Regulation (EU) No. 208/2011 amending Annex VII to Regulation (EC) 882/2004 of the European Parliament and of the Council and Commission Regulations (EC) No. 180/2008 and (EC) No. 737/2008 as regards lists and names of EU reference laboratories (OJ No.L58, 3.3.2011, p.29).

## Hysbysiadau a gweithredoedd mewn achos o anghydymffurfiaeth

8.—(1) Os yw mewnforiwr yn cyflwyno llwyth o gynnyrch perthnasol ar gyfer ei fewnforio i Gymru, a hynny heb gyflwyno datganiad ac adroddiad labordy cysylltiedig yn unol â gofynion Erthygl 3(1), (2) a (3), caiff yr awdurdod bwyd, drwy hysbysiad ysgrifenedig, wneud yn ofynnol bod y mewnforiwr yn cyflwyno datganiad o'r fath o fewn 14 diwrnod ar ôl dyddiad cyflwyno'r hysbysiad.

(2) Os yw'r gwiriadau y darperir ar eu cyfer yn Erthygl 6(1) yn dynodi—

- (a) pan fo hysbysiad wedi ei gyflwyno o dan baragraff (1), nad yw'r datganiad a bennir yn Erthygl 3(1) ynghyd â'r adroddiad labordy a bennir yn Erthygl 3(3) wedi ei gyflwyno erbyn y dyddiad a bennir yn yr hysbysiad; neu
- (b) pan nad oes hysbysiad wedi ei gyflwyno o dan baragraff (1), nad yw'r datganiad a bennir yn Erthygl 3(1) ynghyd â'r adroddiad labordy a bennir yn Erthygl 3(3) wedi ei gyflwyno; neu
- (c) bod datganiad neu adroddiad labordy wedi ei gyflwyno nad yw'n cydymffurfio â gofynion Erthygl 3(1), (2) a (3); neu
- (ch) nad yw'r cynnyrch perthnasol sy'n destun y gwiriadau yn bodloni—
  - (i) prawf adnabod, neu
  - (ii) gofynion Rheoliad y Comisiwn (EU) Rhif 10/2011 ar ddeunyddiau ac eitemau plastig y bwriedir iddynt ddod i gysylltiad â bwyd(1),

rhaid i'r awdurdod bwyd gymryd y camau a bennir ym mharagraff (3).

(3) Rhaid i'r awdurdod bwyd, drwy hysbysiad ysgrifenedig—

- (a) gwneud yn ofynnol bod y mewnforiwr, o fewn 60 diwrnod ar ôl dyddiad cyflwyno'r hysbysiad—
  - (i) yn ail anfon y llwyth, i rywle sydd y tu allan i'r Undeb Ewropeaidd,
  - (ii) yn achos llestri cegin polyamid, eu rhwygo a'u toddi, a ffurfio'r cynnyrch canlyniadol yn eitemau at ddibenion ac eithrio'u rhoi mewn cysylltiad â bwyd, neu
  - (iii) ar gost y mewnforiwr, dinistrio'r llwyth dan reolaeth swyddogol; a
- (b) hysbysu'r mewnforiwr y caiff yr awdurdod, yn unol ag Erthygl 54(2) a (5) o Reoliad 882/2004, os na chydymffurfir â gofynion is-baragraff (a), drefnu i ddinistrio'r llwyth ac adennill y costau storio a dinistrio oddi ar y mewnforiwr.

## Notices and actions in the case of non-compliance

8.—(1) If an importer presents a consignment of relevant product for import into Wales without submitting a declaration and accompanying laboratory report in accordance with the requirements of Article 3(1),(2) and (3), the food authority may by written notice require the importer to submit such a declaration within 14 days of the date of service of the notice.

(2) If the checks provided for in Article 6(1) indicate that —

- (a) where notice has been served under paragraph (1), the declaration specified in Article 3(1) together with the laboratory report specified in Article 3(3) has not been submitted by the date specified in the notice; or
- (b) where notice has not been served under paragraph (1), the declaration specified in Article 3(1) together with the laboratory report specified in Article 3(3) has not been submitted; or
- (c) a declaration or a laboratory report has been submitted that does not comply with the requirements of Article 3(1),(2) and (3); or
- (d) the relevant product that is the subject of the checks —
  - (i) fails an identity check, or
  - (ii) does not meet the requirements of Commission Regulation (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food(1),

the food authority must take the steps set out in paragraph (3).

(3) The food authority must, by written notice —

- (a) require the importer within 60 days of the date of service of the notice —
  - (i) to re-dispatch the consignment outside the European Union,
  - (ii) in the case of polyamide kitchenware, to carry out shredding and melting and form the resulting product into articles for purposes other than food contact, or
  - (iii) at the importer's expense to destroy the consignment under official control; and
- (b) inform the importer that if the requirements of sub-paragraph (a) are not complied with the authority may in accordance with Article 54(2) and (5) of Regulation 882/2004 arrange for the destruction of the consignment and recover the costs of storage and destruction from the importer.

(1) OJ Rhif L12, 15.1.2011, t.1.

(1) OJ No. L12, 15.1.2011, p.1.

(4) Ceir cyflwyno unrhyw hysbysiad o dan baragraff (1) neu (3) i'r mewnoforiwr neu i gynrychiolydd y mewnoforiwr.

### **Hawliau apelio**

9.—(1) Caiff unrhyw berson a dramgwyddir gan benderfyniad swyddog awdurdodedig i gyflwyno hysbysiad o dan reoliad 8(3) apelio i lys ynadon.

(2) Y weithdrefn a ddilynir mewn apêl i lys ynadon o dan baragraff (1) yw gwneud cwyn am orchymyn, a bydd Deddf Llysoedd yr Ynadon 1980(1) yn gymwys i'r gweithrediadau.

(3) Y cyfnod a ganiateir ar gyfer dwyn apêl o dan baragraff (1) fydd un mis o'r dyddiad y cyflwynwyd yr hysbysiad i'r person sy'n dymuno apelio, ac at ddibenion y paragraff hwn, ystyrir bod gwneud cwyn am orchymyn yn gyfystyr â dwyn yr apêl.

(4) Os yw llys ynadon, mewn apêl o dan baragraff (1), yn penderfynu bod penderfyniad y swyddog awdurdodedig yn anghywir, rhaid i'r awdurdod roi effaith i benderfyniad y llys.

(5) Caiff person a dramgwyddir gan wrthodiad llys ynadon i ganiatáu apêl a wnaed i'r llys o dan baragraff (1), apelio i Lys y Goron.

(6) Pan fo apêl wedi ei dwyn o dan baragraff (1) o fewn y cyfnod a bennir ym mharagraff (3), atelir effaith hysbysiad a gyflwynir o dan reoliad 8(3) hyd nes penderfynir yr apêl yn derfynol.

### **Atal dros dro ddynodiad man cyflwyno cyntaf**

10.—(1) Pan fo'r Asiantaeth wedi ei bodloni y byddai parhau i weithredu man cyflwyno cyntaf dynodedig o dan Erthygl 5 yn achosi risg ddifrifol i iechyd y cyhoedd, caiff atal dros dro ddynodiad y man cyflwyno cyntaf, yn gyfan gwbl neu'n rhannol, drwy gyflwyno hysbysiad ysgrifenedig i'r perwyl hwnnw, i weithredwr y man cyflwyno.

(2) Pan gyflwynir hysbysiad o dan baragraff (1), bydd y man cyflwyno yn peidio â bod yn fan cyflwyno cyntaf dynodedig o dan Erthygl 5 i'r graddau a bennir felly yn yr hysbysiad hwnnw, hyd nes dynodir ef felly drachefn o dan Erthygl 5.

### **Cymhwyso amrywiol adrannau o'r Ddeddf**

11.—(1) Mae'r darpariaethau canlynol o'r Ddeddf yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiad bod unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf neu unrhyw Ran ohoni i'w ddehongli fel cyfeiriad at y Rheoliadau hyn—

(4) Any notice under paragraph (1) or (3) may be served on the importer or the importer's representative.

### **Rights of appeal**

9.—(1) Any person who is aggrieved by a decision of an authorised officer to serve a notice under regulation 8(3) may appeal to a magistrates' court.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) shall be by way of complaint for an order, and the Magistrates' Courts Act 1980 (1) applies to the proceedings.

(3) The period within which an appeal under paragraph (1) may be brought is one month from the date on which the notice was served on the person desiring to appeal and the making of a complaint for an order will be deemed for the purposes of this paragraph to be the bringing of the appeal.

(4) Where on an appeal under paragraph (1) a magistrates' court determines that the decision of the authorised officer is incorrect, the authority must give effect to the determination of the court.

(5) A person who is aggrieved by the dismissal by a magistrates' court of an appeal to it under paragraph (1) may appeal to the Crown Court.

(6) Where an appeal has been brought under paragraph (1) within the period specified in paragraph (3), the effect of a notice served under regulation 8(3) is suspended pending the final determination of the appeal.

### **Suspension of designation of first point of introduction**

10.—(1) Where the Agency is satisfied that the continued operation of a first point of introduction designated under Article 5 presents a serious risk to public health, it may suspend the designation of the first point of introduction either in full or in part by the service on the operator of the point of introduction of a written notice to that effect.

(2) Upon service of a notice under paragraph (1), the point of introduction will cease to be a designated first point of introduction under Article 5 to the extent so specified in that notice until it is again so designated under Article 5.

### **Application of various sections of the Act**

11.—(1) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part of it is to be construed as a reference to these Regulations —

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(1) 1980 p.43.

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(1) 1980 c.43.



- (a) adran 20 (tramgwyddau o ganlyniad i fai person arall);
- (b) adran 21 (amddiffyniad o ddiwydrwydd dyladwy)(1) gyda'r addasiad—
  - (i) bod is-adrannau (2) i (4) yn gymwys mewn perthynas â thramgwydd o dorri rheoliad 3 fel y maent yn gymwys mewn perthynas â thramgwydd o dan adran 14 neu 15, a
  - (ii) yn is-adran (4), ystyrir bod y cyfeiriadau at "sale" yn cynnwys cyfeiriadau at "placing on the market";
- (c) adran 30(8) (sy'n ymwneud â thystiolaeth ddogfennol);
- (ch) adran 35(1) (cosbi tramgwyddau)(2), i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(1) fel y'i cymhwysir gan baragraff (3)(a) uchod;
- (d) adran 35(2) a (3)(3), i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(2) fel y'i cymhwysir gan baragraff (3)(b) isod;
- (dd) adran 36 (tramgwyddau gan gyrff corfforaethol); ac
- (e) adran 36A (tramgwyddau gan bartneriaethau Albanaidd)(4).

(2) Wrth gymhwyso adran 32 o'r Ddeddf (pwerau mynediad) at ddibenion y Rheoliadau hyn, rhaid dehongli'r cyfeiriadau yn is-adran (1) at y Ddeddf fel pe baent yn cynnwys cyfeiriadau at Reoliad y Comisiwn.

(3) Mae'r darpariaethau canlynol o'r Ddeddf yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiad bod unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf i'w dehongli fel pe baent yn cynnwys cyfeiriad at Reoliad y Comisiwn a'r Rheoliadau hyn—

- (a) adran 33(1) (rhwystro etc. swyddogion);
- (b) adran 33(2), gyda'r addasiad bod y cyfeiriad at "any such requirement as is mentioned in subsection (1)(b) above" i'w ystyried yn gyfeiriad at unrhyw ofyniad o'r math a grybwyllir yn yr is-adran honno fel y'i cymhwysir gan is-baragraff (a) uchod; ac
- (c) adran 44 (amddiffyn swyddogion sy'n gweithredu'n ddiwyll).

(4) Mae adran 34 o'r Ddeddf (terfyn amser ar gyfer erlyniadau) yn gymwys i dramgwyddau o dan reoliad 4 fel y mae'n gymwys i dramgwyddau sy'n gosbadwy o dan adran 35(2) o'r Ddeddf.

- (a) section 20 (offences due to fault of another person);
- (b) section 21 (defence of due diligence)(1) with the modification that —
  - (i) subsections (2) to (4) apply in relation to an offence of contravening regulation 3 as they apply in relation to an offence under section 14 or 15, and
  - (ii) in subsection (4) the references to "sale" are deemed to include references to "placing on the market";
- (c) section 30(8) (which relates to documentary evidence);
- (d) section 35(1) (punishment of offences)(2), in so far as it relates to offences under section 33(1) as applied by paragraph (3)(a) above;
- (e) section 35(2) and (3)(3), in so far as it relates to offences under section 33(2) as applied by paragraph (3)(b) below;
- (f) section 36 (offences by bodies corporate); and
- (g) section 36A (offences by Scottish partnerships)(4).

(2) In the application of section 32 of the Act (powers of entry) for the purposes of these Regulations, the references in subsection (1) to the Act are to be construed as including references to the Commission Regulation.

(3) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act is to be construed as including a reference to the Commission Regulation and these Regulations —

- (a) section 33(1) (obstruction etc. of officers);
- (b) section 33(2), with the modification that the reference to "any such requirement as is mentioned in subsection (1)(b) above" is deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (a) above; and
- (c) section 44 (protection of officers acting in good faith).

(4) Section 34 of the Act (time limit for prosecutions) applies to offences under regulation 4 as it applies to offences punishable under section 35(2) of the Act.

(1) Diwygiwyd adran 21 gan O.S. 2004/3279.

(2) Diwygiwyd 35(1) gan Ddeddf Cyfiawnder Troseddol 2003 (2003 p.44), Atodlen 26, paragraff 42, o ddyddiad sydd i'w bennu.

(3) Diwygiwyd adran 35(3) gan O.S. 2004/3279.

(4) Mewnosodwyd adran 36A gan Ddeddf Safonau Bwyd 1999 (1999 p.28), Atodlen 5, paragraff 16.

(1) Section 21 was amended by S.I. 2004/3279.

(2) Section 35(1) is amended by the Criminal Justice Act 2003 (2003 c.44), Schedule 26, paragraph 42, from a date to be appointed.

(3) Section 35(3) was amended by S.I. 2004/3279.

(4) Section 36A was inserted by the Food Standards Act 1999 (1999 c.28), Schedule 5, paragraph 16.

## Adolygu statudol

12.—(1) Cyn diwedd pob cyfnod adolygu, rhaid i'r Asiantaeth—

- (a) cynnal adolygiad o reoliadau 3 i 11;
- (b) nodi casgliadau'r adolygiad mewn adroddiad; ac
- (c) cyhoeddi'r adroddiad.

(2) Wrth gynnal yr adolygiad, rhaid i'r Asiantaeth, i'r graddau y bo'n rhesymol, roi sylw i'r modd y gweithredir ac y gorfodir Rheoliad y Comisiwn mewn Aelod-wladwriaethau eraill.

(3) Yn benodol, rhaid i'r adroddiad—

- (a) nodi'r amcanion y bwriedir i'r system reoleiddiol a sefydlir gan y Rheoliadau hyn eu cyrraedd;
- (b) asesu i ba raddau y cyrhaeddwyd yr amcanion hynny; ac
- (c) asesu a yw'r amcanion hynny'n parhau'n briodol, ac os felly, i ba raddau y gellid eu cyrraedd gyda system sy'n gosod llai o reoleiddio.

(4) Ystyr "cyfnod adolygu" ("*review period*") yw—

- (a) y cyfnod o 5 mlynedd sy'n cychwyn gyda'r diwrnod y daw'r Rheoliadau hyn i rym; a
- (b) yn ddarostyngedig i baragraff (5), pob cyfnod dilynol o 5 mlynedd.

(5) Os cyhoeddir yr adroddiad o dan y rheoliad hwn cyn diwrnod olaf y cyfnod adolygu y mae'r adroddiad yn ymdrin ag ef, bydd y cyfnod adolygu dilynol yn cychwyn gyda'r diwrnod y cyhoeddir yr adroddiad hwnnw.

## Statutory review

12.—(1) Before the end of each review period the Agency must —

- (a) carry out a review of regulations 3 to 11;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Agency must, so far as is reasonable, have regard to how the Commission Regulation is executed and enforced in other Member States.

(3) The report must in particular —

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) "Review period" ("*cyfnod adolygu*") means —

- (a) the period of 5 years beginning with the day on which these Regulations come into force; and
- (b) subject to paragraph (5), each successive period of 5 years.

(5) If the report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

*Lesley Griffiths*

Gweinidog dros Iechyd a Gwasanaethau  
Cymdeithasol, un o Weinidogion Cymru

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

28 Mehefin 2011

28 June 2011

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**2011 Rhif 1605 (Cy.186)**

**BWYD, CYMRU**

Rheoliadau Llestri Cegin Plastig  
(Amodau ar Fewnforion o Tsieina)  
(Cymru) 2011

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WELSH STATUTORY  
INSTRUMENTS

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**2011 No. 1605 (W.186)**

**FOOD, WALES**

The Plastic Kitchenware  
(Conditions on Imports from  
China) (Wales) Regulations 2011