OFFERYNNAU STATUDOL CYMRU

2011 Rhif 233 (Cy.45)

BWYD, CYMRU

Rheoliadau Deunyddiau ac Eitemau Plastig mewn Cysylltiad â Bwyd (Cymru) (Diwygio) 2011

NODYN ESBONIADOL

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

1. Mae'r Rheoliadau hyn yn diwygio Rheoliadau Deunyddiau ac Eitemau Plastig mewn Cysylltiad â Bwyd (Cymru) 2009 (O.S. 2009/481 (Cy.49)) fel y'i diwygiwyd yn flaenorol gan O.S. 2010/2288 (Cy.200) ("y prif Reoliadau") er mwyn darparu ar gyfer gweithredu, yng Nghymru, drefniadau trosiannol a gynhwyswyd yng Nghyfarwyddeb y Comisiwn 2011/8/EU sydd yn diwygio Cyfarwyddeb 2002/72/EC o ran cyfyngu ar y defnydd o Bisffenol A mewn poteli bwydo babanod wedi eu gwneud o blastig (O.J.No. L26, 29-1-2011, t.11) ("Cyfarwyddeb newydd y Comisiwn").

2. Mae Cyfarwyddeb newydd y Comisiwn yn cynnwys gwaharddiad ar weithgynhyrchu, gwerthu a mewnforio poteli bwydo babanod wedi eu gwneud o blastig sy'n cael eu gweithgynhyrchu gan ddefnyddio Bisffenol A, ynghyd â darpariaethau trosiannol ar gyfer cyflwyno'r gwaharddiad hwn yn raddol. Mae'r prif Reoliadau'n cynnwys (yn rheoliad 2(5)) gyfeiriad newidiadwy sy'n cael yr effaith o weithredu'r gwaharddiad.

3. Mae'r Rheoliadau hyn yn diwygio'r prif Reoliadau er mwyn darparu ar gyfer gweithredu'r trefniadau trosiannol yng Nghyfarwyddeb newydd y Comisiwn (*rheoliad 2(2)*).

4. Mae asesiad effaith reoleiddiol wedi ei baratoi ynglŷn â chostau a buddion tebygol cydymffurfio â'r Rheoliadau hyn. Gellir cael copi gan yr Asiantaeth Safonau Bwyd, Llawr 11, Southgate House, Caerdydd, CF10 1EW.

WELSH STATUTORY INSTRUMENTS

2011 No. 233 (W.45)

FOOD, WALES

The Plastic Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009 (S.I. 2009/481 (W.49)) as previously amended by S.I. 2010/2288 (W.200) ("the principal Regulations") in order to provide for the implementation in Wales of transitional arrangements contained in Commission Directive 2011/8/EU amending Directive 2002/72/EC as regards the restriction of use of Bisphenol A in plastic infant feeding bottles (O.J.No. L26, 29-1-2011, p.11) ("the new Commission Directive").

2. The new Commission Directive contains a prohibition on the manufacture, sale and import of plastic feeding bottles for infants that are manufactured using Bisphenol A, together with transitional provisions for phasing in this prohibition. The principal Regulations contain (at regulation 2(5)) an ambulatory reference which has the effect of implementing the prohibition.

3. These Regulations amend the principal Regulations to provide for the implementation of the transitional arrangements in the new Commission Directive *(regulation 2(2))*.

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

OFFERYNNAU STATUDOL CYMRU

2011 Rhif 233 (Cy.45)

BWYD, CYMRU

Rheoliadau Deunyddiau ac Eitemau Plastig mewn Cysylltiad â Bwyd (Cymru) (Diwygio) 2011

Gwnaed *5 Chwefror 2011*

Gosodwyd gerbron Cynulliad Cenedlaethol Cymru *8 Chwefror 2011*

Yn dod i rym *1 Mawrth 2011*

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

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.

(**1**) 1990 p.16. Cafodd adran 1(1) a (2) (y diffiniad o "food") ei disodli gan O.S. 2004/2990. Cafodd adrannau 17 a 48 eu diwygio gan baragraffau 12 a 21, yn ôl eu trefn, o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (1999 p.28), "Deddf 1999". Cafodd adran 48 ei diwygio'n ogystal gan O.S. 2004/2990. Cafodd adran 53(2) ei diwygio gan baragraff 19 o Atodlen 16 i Ddeddf Dadreoli a Chontractio Allan 1994 (1994 p.40), Atodlen 6 i Ddeddf 1999, O.S. 2004/2990, ac O.S. 2004/3279.

(**2**) Mae swyddogaethau a oedd gynt yn arferadwy gan "the Ministers" (sef, o ran Cymru a Lloegr a chan weithredu ar y cyd, y Gweinidog Amaethyddiaeth, Pysgodfeydd a Bwyd a'r Ysgrifenyddion Gwladol, a oedd yn ôl eu trefn, yn ymwneud ag iechyd yn Lloegr a bwyd ac iechyd yng Nghymru, ac, o ran yr Alban, yr Ysgrifennydd Gwladol) bellach yn arferadwy o ran 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 chawsant eu trosglwyddo ar ôl hynny i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (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 (1998 p.46) fel y'i darllenir gydag adran 40(2) o Ddeddf 1999.

WELSH STATUTORY INSTRUMENTS

2011 No. 233 (W.45)

FOOD, WALES

The Plastic Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2011

Made *5 February 2011*

Laid before the National Assembly for Wales *8 February 2011*

Coming into force *1 March 2011*

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

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.

(**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 1999Act". 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 and, in relation to Scotland, the Secretary of State) are now exercisable in relation to 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 subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (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 (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 wrth baratoi a gwerthuso'r Rheoliadau hyn.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Deunyddiau ac Eitemau Plastig mewn Cysylltiad â Bwyd (Cymru) (Diwygio) 2011, a deuant i rym ar 1 Mawrth 2011.

Diwygiad i Reoliadau Deunyddiau ac Eitemau Plastig mewn Cysylltiad â Bwyd (Cymru) 2009

2.–(1) Diwygir Rheoliadau Deunyddiau ac Eitemau Plastig mewn Cysylltiad â Bwyd (Cymru) 2009(**2**) yn unol â pharagraff (2).

(2) Ar ôl rheoliad 21 (amddiffyniad trosiannol ynglŷn â gasgedi PVC sy'n cynnwys olew ffa soia wedi ei epocsideiddio), mewnosoder y canlynol fel rheoliad 21A–

> **"Transitional defences relating to infant feeding bottles containing Bisphenol A**
>
> **21A**.–(1) In any proceedings for an offence under regulation 3 in connection with the sale or import into the EU of a polycarbonate infant feeding bottle which fails to meet the required standard it shall be a defence to prove that the plastic material or article –
>
> (a) was placed on the market or as the case may be imported in to the EU before 1st June 2011; and
>
> (b) complied with these Regulations as they stood immediately before the amendment made to Annex II to the Directive by Commission Directive 2011/8/EU.
>
> (2) In any proceedings for an offence under regulation 4 in connection with the use of Bisphenol A in the manufacture of a polycarbonate infant feeding bottle it shall be a defence to prove that the plastic material or article –
>
> (a) was manufactured before 1st March 2011; and

(**1**) OJ Rhif L31, 1.2.2002, t.1.Cafodd y Rheoliad hwnnw ei ddiwygio 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 o ran y weithdrefn reoleiddio gyda chraffu: Addasiad i'r weithdrefn reoleiddio gyda chraffu - Rhan Pedwar (OJ Rhif L188, 18.7.2009, t.14).

(**2**) O.S. 2009/481 (Cy.49), a ddiwygiwyd gan O.S. 2010/2288 (Cy.200).

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 and commencement

1. The title of these Regulations is the Plastic Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2011 and they come into force on 1 March 2011.

Amendment to the Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009

2.–(1) The Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009(**2**) are amended in accordance with paragraph (2).

(2) After regulation 21 (transitional defence relating to PVC gaskets containing epoxidised soybean oil) insert the following as regulation 21A–

> **"Transitional defences relating to infant feeding bottles containing Bisphenol A**
>
> **21A**.–(1) In any proceedings for an offence under regulation 3 in connection with the sale or import into the EU of a polycarbonate infant feeding bottle which fails to meet the required standard it shall be a defence to prove that the plastic material or article –
>
> (a) was placed on the market or as the case may be imported in to the EU before 1st June 2011; and
>
> (b) complied with these Regulations as they stood immediately before the amendment made to Annex II to the Directive by Commission Directive 2011/8/EU.
>
> (2) In any proceedings for an offence under regulation 4 in connection with the use of Bisphenol A in the manufacture of a polycarbonate infant feeding bottle it shall be a defence to prove that the plastic material or article –
>
> (a) was manufactured before 1st March 2011; and

(**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 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. 2009/481 (W.49), amended by S.I. 2010/2288 (W.200).

(b) complied with these Regulations as they stood immediately before the amendment made to Annex II to the Directive by Commission Directive 2011/8/EU.

(3) In this regulation Commission Directive 2011/8/EU means Commission Directive 2011/8/EU amending Directive 2002/72/EC as regards the restriction of use of Bisphenol A in plastic infant feeding bottles.".

(b) complied with these Regulations as they stood immediately before the amendment made to Annex II to the Directive by Commission Directive 2011/8/EU.

(3) In this regulation Commission Directive 2011/8/EU means Commission Directive 2011/8/EU amending Directive 2002/72/EC as regards the restriction of use of Bisphenol A in plastic infant feeding bottles.".

Gwenda Thomas

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

5 Chwefror 2011

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

5 February 2011

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