
OFFERYNNAU STATUDOL CYMRU

2013 No. 2493

Rheoliadau Halogion mewn Bwyd (Cymru) 2013

RHAN 4

Gweinyddu a gorfodi

Cosbau

6. Mae unrhyw un a geir yn euog o drosedd o dan reoliad 4(3) neu reoliad 5(1) yn atebol, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol.

Gorfodi ac awdurdodau cymwys

7.—(1) Mae dyletswydd ar bob awdurdod bwyd, o fewn ei sir neu'i fwrdeistref sirol, i weithredu a gorfodi'r Rheoliadau hyn, Rheoliad 1881/2006 a Rheoliad 124/2009.

(2) Yr awdurdod cymwys at ddibenion—

- (a) Erthygl 2(2) o Reoliad 1881/2006 (cyfiawnhau ffactorau crynodi neu wanedu gan weithredwyr busnesau bwyd); a
- (b) Erthygl 1(1) o Reoliad 124/2009 (sy'n ymwneud â'r ddyletswydd o ymchwilio i'r rhesymau am yr halogi),

yw'r awdurdod sydd â'r ddyletswydd o weithredu a gorfodi o dan baragraff (1).

Cymhwyso amryw adrannau o Ddeddf Diogelwch Bwyd 1990

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

- (a) adran 3 (rhagdybiaethau y bwriedir bwyd ar gyfer ei fwyta gan bobl);
- (b) adran 20 (troseddau oherwydd bai person arall);
- (c) adran 21 (amddiffyniad o ddiwydrwydd dyladwy)(1) gyda'r addasiad—
 - (i) bod is-adrannau (2) i (4) yn gymwys mewn perthynas â throedd o dan reoliad 4(3) neu 5(1) fel y maent yn gymwys mewn perthynas â throedd o dan adran 14 neu 15, a
 - (ii) yn is-adran (4), yr ystyrir bod y cyfeiriadau at “sale” yn cynnwys cyfeiriadau at “placing on the market”;
- (d) adran 30(8) (sy'n ymwneud â thystiolaeth ddogfennol);
- (e) adran 33(1) (rhwystro etc. swyddogion);
- (f) adran 33(2), gyda'r addasiad yr ystyrir bod y cyfeiriad at “any such requirement as is mentioned in subsection (1)(b) above” yn gyfeiriad at unrhyw ofyniad o'r math a grybwyllir yn adran 33(1)(b) fel y'i cymhwysir gan is-baragraff (e);

- (g) adran 35(1) (cosbi troseddau)(2), i'r graddau y mae'n ymwneud â throseddau o dan adran 33(1) fel y'i cymhwysir gan is-baragraff (e);
- (h) adran 35(2) a (3)(3), i'r graddau y mae'n ymwneud â throseddau o dan adran 33(2) fel y'i cymhwysir gan is-baragraff (f);
- (i) adran 36 (troseddau gan gyrff corfforaethol);
- (j) adran 36A (troseddau gan bartneriaethau Albanaidd)(4); a
- (k) adran 44 (diogelu swyddogion sy'n gweithredu'n ddidwyll).

(2) Yn ddarostyngedig i baragraff (3), mae adran 9 o'r Ddeddf (archwilio ac ymafael mewn bwyd a amheuir) yn gymwys at ddibenion y Rheoliadau hyn fel pe bai'n darllen fel a ganlyn—

“9.—(1) An authorised officer of a food authority may at all reasonable times inspect any food intended for human consumption which has been placed on the market and subsections (2) to (7) below apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food fails to comply with any of the requirements specified in regulation 4(1) or 5(2) of the Contaminants in Food (Wales) Regulations 2013, (“the EU requirements”).

(2) The authorised officer may either —

- (a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it —
 - (i) is not to be used for human consumption, and
 - (ii) either is not to be removed or is to be removed to a place at which there are facilities to carry out sampling in the manner required by law; or
- (b) seize the food and remove it in order to have it dealt with by a justice of the peace.

(3) Where the authorised officer exercises the power conferred by subsection (2)(a) above, that officer must, as soon as is reasonably practicable and in any event within 21 days, determine whether or not the food complies with the EU requirements and —

- (a) if satisfied that it does comply, shall forthwith withdraw the notice;
- (b) if not so satisfied, shall seize the food and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer exercises the powers conferred by subsection (2)(b) or (3)(b) above, the officer must inform the person in charge of the food of the intention to have it dealt with by a justice of the peace and —

- (a) any person who in connection with any of the EU requirements might be liable to a prosecution in respect of the food shall, if that person attends before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) that justice of the peace may, but need not, be a member of the court before which any person is proceeded against for an offence in connection with any of the EU requirements in relation to that food.

(5) If it appears to a justice of the peace, on the basis of such evidence as the justice considers appropriate in the circumstances, that any food falling to be dealt with under this section fails to comply with any of the EU requirements the justice must condemn the food and order —

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

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

(4) Mewniodwyd adran 36A gan baragraff 16 o Atodlen 5i Ddeddf Safonau Bwyd 1999 (1999 p.28).

- (a) the food to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the food.

(6) If a notice under subsection (2)(a) above is withdrawn, or the justice of the peace by whom any food falls to be dealt with under this section refuses to condemn it, the food authority must compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right to or the amount of any compensation payable under subsection (6) above must be determined by arbitration.

(8) Any person who knowingly contravenes the requirements of a notice under subsection (2)(a) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

(3) Mae'r ymadroddion Cymraeg “swyddog awdurdodedig” ac “awdurdod bwyd” sy'n cyfateb, yn eu trefn, i'r ymadroddion Saesneg “authorised officer” a “food authority” a ddefnyddir yn adran 9 o'r Ddeddf i'r graddau y mae'n gymwys at ddibenion y Rheoliadau hyn yn rhinwedd paragraff (2), yn dwyn, at y dibenion hynny, yr ystyron a ddygir gan yr ymadroddion hynny yn y Rheoliadau hyn.

Diwygiad canlyniadol

9. Yn Atodlen 1 i Reoliadau Diogelwch Bwyd (Samplu a Chymwysterau) (Cymru) 2013(5) (darpariaethau nad yw'r Rheoliadau hynny'n gymwys iddynt), yn lle'r cofnod sy'n ymwneud â Rheoliadau Halogion mewn Bwyd (Cymru) 2010(6) rhodder y cofnodion canlynol yng ngholofnau 1 a 2 yn eu trefn—

“Rheoliadau Halogion mewn Bwyd (Cymru) O.S. 2013/----.”
2013(i'r graddau y mae sampl yn un sydd i'w ddadansoddi yn unol â Rheoliad y Comisiwn (EC) Rhif 1881/2006 sy'n pennu'r lefelau uchaf ar gyfer rhai halogion mewn bwydydd)”

Dirymiadau

10. Dirymir y canlynol—

- (a) Rheoliadau Hydrocarbonau Mwynol mewn Bwyd 1966(7);
- (b) Rheoliadau Asid Erwsig mewn Bwyd 1977(8);
- (c) Rheoliadau Asid Erwsig mewn Bwyd (Diwygio) 1982(9); a
- (d) Rheoliadau Halogion mewn Bwyd (Cymru) 2010.

(5) O.S. 2013/479 (Cy.55).

(6) O.S. 2010/2394 (Cy.206).

(7) O.S. 1966/1073.

(8) O.S. 1977/691.

(9) O.S. 1982/264.