OFFERYNNAU STATUDOL CYMRU

2012 Rhif 975 (Cy.129)

BWYD, CYMRU

Rheoliadau Hylendid Bwyd (Cymru) (Diwygio) 2012

NODYN ESBONIADOL

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

1. Mae'r Rheoliadau hyn yn diwygio Rheoliadau Hylendid Bwyd (Cymru) 2006 (O.S. 2006/31 (Cy.5), fel y'i diwygiwyd eisoes) er mwyn-

(a) caniatáu i hysbysiad camau cywiro gael ei gyflwyno mewn perthynas â sefydliad nad yw'n ddarostyngedig i gymeradwyaeth o dan ddeddfwriaeth hylendid bwyd Ewropeaidd (rheoliad 2(2)); a

(b) darparu i ddigollediad fod yn daladwy pan fo'r gweithredydd busnes bwyd yn cael colled drwy gydymffurfio â hysbysiad camau cywiro sydd, ar apêl i'r llys, yn cael ei ganslo wedyn (rheoliad 2(3)).

2. Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar wneud Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, paratowyd asesiad effaith rheoleiddiol o'r costau a'r buddiannau sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi gan yr Asiantaeth Safonau Bwyd, Llawr 11, Southgate House, Caerdydd CF10 1EW.

WELSH STATUTORY INSTRUMENTS

2012 No. 975 (W.129)

FOOD, WALES

The Food Hygiene (Wales) (Amendment) Regulations 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Food Hygiene (Wales) Regulations 2006 (S.I. 2006/31 (W.5), as already amended) so as to-

(a) permit the service of a remedial action notice in relation to an establishment not subject to approval under European food hygiene legislation (regulation 2(2)); and

(b) provide for compensation to be payable where a food business operator suffers loss by complying with a remedial action notice which, on appeal to the court, is subsequently cancelled (regulation 2(3)).

2. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, 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.

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2012 Rhif 975 (Cy.129)

BWYD, CYMRU

Rheoliadau Hylendid Bwyd (Cymru) (Diwygio) 2012

Gwnaed	*28 Mawrth 2012*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*30 Mawrth 2012*
Yn dod i rym	*1 Mai 2012*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddwyd gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(**1**).

Mae Gweinidogion Cymru wedi eu dynodi at ddibenion yr adran honno o ran mesurau sy'n ymwneud â bwyd (gan gynnwys diod), gan gynnwys cynhyrchu sylfaenol o ran bwyd(**2**).

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 bwyd(**3**) cafwyd ymgynghoriad cyhoeddus agored a thryloyw tra bu'r Rheoliadau a ganlyn yn cael eu paratoi.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Hylendid Bwyd (Cymru) (Diwygio) 2012 a deuant i rym ar 1 Mai 2012.

(**1**) 1972 p.68.

(**2**) O.S. 2005/1971. Yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (2006 p.32) a pharagraffau 28 a 30 o Atodlen 11 iddi, trosglwyddwyd y swyddogaethau a roddwyd i Gynulliad Cenedlaethol Cymru drwy'r dynodiad hwn, i Weinidogion Cymru.

(**3**) 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 sy'n ddarostyngedig i'r weithdrefn y cyfeirir ati yn Erthygl 251 o'r Cytuniad i Benderfyniad y Cyngor 1999/468/EC o ran y weithdrefn reoleiddio ynghyd â chraffu: Addasu at y weithdrefn reoleiddio ynghyd â chraffu - Rhan Pedwar (OJ Rhif L188, 18.7.2009, t.14).

WELSH STATUTORY INSTRUMENTS

2012 No. 975 (W.129)

FOOD, WALES

The Food Hygiene (Wales) (Amendment) Regulations 2012

Made	*28 March 2012*
Laid before the National Assembly for Wales	*30 March 2012*
Coming into force	*1 May 2012*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**).

The Welsh Ministers are designated for the purposes of that section in relation to measures in respect of food (including drink) including the primary production of food(**2**).

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(**3**) there has been open and transparent public consultation during the preparation of the following Regulations.

Title and commencement

1. The title of these Regulations is the Food Hygiene (Wales) (Amendment) Regulations 2012 and they come into force on 1 May 2012.

(**1**) 1972 c.68.

(**2**) S.I. 2005/1971. By virtue of section 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32), functions conferred on the National Assembly for Wales by this designation are transferred to the Welsh Ministers.

(**3**) 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).

Diwygio Rheoliadau Hylendid Bwyd (Cymru) 2006

2.—(1) Mae Rheoliadau Hylendid Bwyd (Cymru) 2006(**1**) wedi eu diwygio yn unol â'r paragraffau canlynol.

(2) Ym mharagraff (1) o reoliad 9 (hysbysiadau camau cywiro a hysbysiadau cadw), hepgorer y geiriau "sy'n ddarostyngedig i gymeradwyaeth o dan Erthygl 4(2) o Reoliad 853/2004".

(3) Ar ôl paragraff (3) o reoliad 22 (apelau yn erbyn hysbysiadau gwella hylendid a hysbysiadau camau cywiro), ychwaneger y canlynol fel paragraff (4) newydd—

> "(4) Pan fo llys, ar apêl yn erbyn hysbysiad camau cywiro o dan baragraff (1), yn canslo'r hysbysiad, rhaid i'r awdurdod gorfodi ddigolledu'r gweithredydd busnes bwyd a ddygodd yr apêl mewn cysylltiad ag unrhyw golled a gafwyd oherwydd bod y gweithredydd busnes bwyd wedi cydymffurfio â'r hysbysiad, a bydd unrhyw gwestiwn dadleuol ynglŷn â'r hawl i gael unrhyw iawndal sy'n daladwy o dan y paragraff hwn neu swm yr iawndal hwnnw yn cael ei benderfynu drwy gymrodeddu."

Amendment of the Food Hygiene (Wales) Regulations 2006

2.—(1) The Food Hygiene (Wales) Regulations 2006(**1**) are amended in accordance with the following paragraphs.

(2) In paragraph (1) of regulation 9 (remedial action notices and detention notices) omit the words "subject to approval under Article 4(2) of Regulation 853/2004".

(3) After paragraph (3) of regulation 22 (appeals against hygiene improvement notices and remedial action notices), as new paragraph (4) add the following—

> "(4) Where on appeal against a remedial action notice under paragraph (1) a court cancels the notice, the enforcement authority must compensate the food business operator who brought the appeal in respect of any loss suffered by reason of the food business operator's compliance with the notice, and any disputed question as to the right to or the amount of any compensation payable under this paragraph will be determined by arbitration."

Lesley Griffiths

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

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

28 Mawrth 2012

28 March 2012

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(**1**) O.S. 2006/31 (Cy.5), fel y'i diwygiwyd gan O.S. 2006/1534 (Cy.151), O.S. 2007/373 (Cy.33) ac O.S. 2010/893 (Cy.92).

(**1**) S.I. 2006/31 (W.5) amended by S.I. 2006/1534 (W.151), S.I. 2007/373 (W.33) and S.I. 2010/893 (W.92).

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