OFFERYNNAU STATUDOL CYMRU

2010 Rhif 363 (Cy.45)

BWYD, CYMRU

Rheoliadau Bwyd at Ddefnydd Maethol Neilltuol (Diwygiadau Amrywiol) (Cymru) 2010

NODYN ESBONIADOL

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

1. Mae'r Rheoliadau hyn, sy'n gymwys o ran Cymru, yn diwygio Rheoliadau Labelu Bwyd 1996 (O.S. 1996/1499, fel y'i diwygiwyd eisoes) a Rheoliadau Hysbysiadau o Farchnata Bwyd at Ddefnydd Maethol Neilltuol (Cymru) 2007 (O.S. 2007/1040 (Cy. 100)) er mwyn adlewyrchu diddymu ac amnewid Cyfarwyddeb y Cyngor 89/398/EC ar gyd-ddynesiad cyfreithiau'r Aelod-wladwriaethau sy'n ymwneud â deunyddiau bwyd a fwriedir at ddefnydd maethol neilltuol (OJ Rhif L186, 30.6.1989, t.27) gan Gyfarwyddeb 2009/39/EC Senedd Ewrop a'r Cyngor ar ddeunyddiau bwyd a fwriedir at ddefnydd maethol neilltuol (OJ Rhif L124, 20.5.2009, t.21).

2. Mae'r Rheoliadau hyn yn diwygio Rheoliadau Labelu Bwyd 1996 (sy'n rhychwantu Prydain Fawr i gyd), i'r graddau y maent yn gymwys o ran Cymru, drwy hepgor y diffiniad o "Directive 89/398" o reoliad 2(1) a mewnosod diffiniad o "Directive 2009/39" yn y ddarpariaeth honno, a rhoi cyfeiriad at "Directive 2009/39" yn lle cyfeiriad at "Directive 89/398" yn rheoliad 3(1)(iv) (*rheoliad 2*).

3. Mae'r Rheoliadau hyn yn diwygio Rheoliadau Hysbysiadau o Farchnata Bwyd at Ddefnydd Maethol Neilltuol (Cymru) 2007 drwy roi diffiniad diwygiedig o "y Gyfarwyddeb" yn lle'r diffiniad presennol o "y Gyfarwyddeb" yn rheoliad 2(1) fel bod y diffiniad yn cyfeirio at Gyfarwyddeb 2009/39/EC yn lle at Gyfarwyddeb 89/398/EEC a thrwy roi cyfeiriadau at ddarpariaethau penodol yng Nghyfarwyddeb 2009/39/EC yn lle'r cyfeiriadau presennol at ddarpariaethau penodol yng Nghyfarwyddeb 89/398/EEC yn rheoliadau 3 a 4 (*rheoliad 3*).

WELSH STATUTORY INSTRUMENTS

2010 No. 363 (W.45)

FOOD, WALES

The Food for Particular Nutritional Uses (Miscellaneous Amendments) (Wales) Regulations 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply in relation to Wales, amend the Food Labelling Regulations 1996 (S.I. 1996/1499, as already amended) and the Notification of Marketing of Food for Particular Nutritional Uses (Wales) Regulations 2007 (S.I. 2007/1040 (W.100)) in order to reflect the repeal and replacement of Council Directive 89/398/EC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses (OJ No. L186, 30.6.1989, p.27) by Directive 2009/39/EC of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses (OJ No. L124, 20.5.2009, p.21).

2. These Regulations amend the Food Labelling Regulations 1996 (which extend to the whole of Great Britain), in so far as they apply in relation to Wales, by omitting the definition of "Directive 89/398" from regulation 2(1) and inserting a definition of "Directive 2009/39" into that provision and substituting a reference to "Directive 2009/39" for a reference to "Directive 89/398" in regulation 3(1)(iv) (*regulation 2*).

3. These Regulations amend the Notification of Marketing of Food for Particular Nutritional Uses (Wales) Regulations 2007 by substituting a revised definition of "the Directive" for the existing definition of "the Directive" in regulation 2(1) so that it refers to Directive 2009/39/EC instead of Directive 89/398/EEC and substituting references to specified provisions of Directive 2009/39/EC for the existing references to specified provisions of Directive 89/398/EEC in regulations 3 and 4 (*regulation 3*).

4. Nid oes asesiad effaith rheoleiddiol wedi ei baratoi ar gyfer yr offeryn hwn gan na ddisgwylir y bydd rhoi'r Rheoliadau hyn ar waith yn gosod unrhyw gostau ar ddefnyddwyr, busnesau neu awdurdodau gorfodi.

4. A regulatory impact assessment has not been prepared for this instrument as it is not anticipated that the implementation of these Regulations will impose any costs on consumers, businesses or enforcement authorities.

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Rheoliadau Bwyd at Ddefnydd Maethol Neilltuol (Diwygiadau Amrywiol) (Cymru) 2010

Gwnaed	*17 Chwefror 2010*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*19 Chwefror 2010*
Yn dod i rym	*15 Mawrth 2010*

Mae Gweinidogion Cymru'n gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd gan adrannau 17(1), 26(1)(a) a 48(1) o Ddeddf Diogelwch Bwyd 1990(**1**), fel y'u darllenir gyda pharagraff 1A o Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972(**2**).

Mae'r Rheoliadau hyn yn gwneud darpariaeth at ddiben a grybwyllir yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 ac mae'n ymddangos i Weinidogion Cymru ei bod yn hwylus i gyfeiriadau penodol mewn offerynnau statudol penodedig at Gyfarwyddeb 2009/39 Senedd Ewrop a'r Cyngor ar ddeunyddiau bwyd a fwriedir at ddefnydd maethol neilltuol(**3**) gael eu dehongli fel cyfeiriadau at y Gyfarwyddeb honno fel y'i diwygir o bryd i'w gilydd.

Yn unol ag adran 48(4A) o Ddeddf Diogelwch Bwyd 1990, mae Gweinidogion Cymru wedi rhoi sylw i gyngor perthnasol a roddwyd gan yr Asiantaeth Safonau Bwyd.

(**1**) 1990 p.16. Trosglwyddwyd swyddogaethau i'r graddau y maent 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 Safonau Bwyd 1999 (1999 p.28) a throsglwyddwyd hwy wedi hynny i Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (2006 p.32) a pharagraff 30 o Atodlen 11 iddi.

(**2**) 1972 p.68. Mewnosodwyd paragraff 1A o Atodlen 2 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (2006 p.51).

(**3**) OJ Rhif L124, 20.5.2009, t.21.

WELSH STATUTORY INSTRUMENTS

2010 No. 363 (W.45)

FOOD, WALES

The Food for Particular Nutritional Uses (Miscellaneous Amendments) (Wales) Regulations 2010

Made	*17 February 2010*
Laid before the National Assembly for Wales	*19 February 2010*
Coming into force	*15 March 2010*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990(**1**), as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(**2**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for certain references to Directive 2009/39 of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses(**3**) in specified statutory instruments to be construed as references to that Directive as amended from time to time.

In accordance with section 48(4A) of the Food Safety Act 1990, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency.

(**1**) 1990 c.16. Functions 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 Food Standards Act 1999 (1999 c.28) and thereafter transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (2006 c.32).

(**2**) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51).

(**3**) OJ No. L124, 20.5.2009, p.21.

Fel y mae Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor sy'n gosod egwyddorion cyffredinol a gofynion cyfraith bwyd, sy'n sefydlu Awdurdod Diogelwch Bwyd Ewrop ac sy'n gosod gweithdrefnau o ran materion sy'n ymwneud â diogelwch bwyd(**1**) yn ei gwneud yn ofynnol, cafwyd ymgynghori agored a thryloyw â'r cyhoedd yn ystod cyfnod paratoi a gwerthuso'r Rheoliadau hyn.

Enwi, cymhwyso a chychwyn

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Bwyd at Ddefnydd Maethol Neilltuol (Diwygiadau Amrywiol) (Cymru) 2010.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru a deuant i rym ar 15 Mawrth 2010.

Diwygio Rheoliadau Labelu Bwyd 1996

2.–(1) Diwygir Rheoliadau Labelu Bwyd 1996(**2**) yn unol â'r paragraffau canlynol i'r graddau y maent yn gymwys i Gymru.

(2) Ym mharagraff (1) o reoliad 2 (dehongli)–

(a) hepgorer y diffiniad o "Directive 89/398"(**3**);

(b) yn syth ar ôl y diffiniad o "Directive 2000/13" mewnosoder y diffiniad canlynol–

""Directive 2009/39" means Directive 2009/39/EC of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses(**4**) as amended from time to time;".

(3) Yn rheoliad 3 (esemptiadau), yn lle is-baragraff (iv) o baragraff (1) rhodder yr is-baragraff canlynol–

"(iv) where applicable, the requirements of Directive 87/250, Directive 90/496, Directive 94/54, Directive 99/2 and Directive 2009/39 are met in respect of that food.".

(**1**) OJ Rhif L31, 1.2.2002, t.1, fel y'i diwygiwyd ddiwethaf gan Reoliad (EC) Rhif 596/2009 Senedd Ewrop a'r Cyngor sy'n addasu nifer o offerynnau'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 - Rhan Pedwar (OJ Rhif L188, 18.7.2009, t.14).

(**2**) O.S. 1996/1499, a ddiwygiwyd gan O.S. 1998/1398, O.S. 1999/747, O.S. 2001/1232 (Cy.66), O.S. 2001/1440 (Cy.102), O.S. 2003/832 (Cy.104), O.S. 2004/249 (Cy.26), O.S. 2004/1396 (Cy.141), O.S. 2004/2558 (Cy.229), O.S. 2004/3022 (Cy.261), O.S. 2005/1309 (Cy.91), O.S. 2007/2611 (Cy.222), O.S. 2008/1268 (Cy.128) ac O.S. 2009/2705 (Cy.224); mae offerynnau diwygio eraill i'w cael, ond nid oes yr un ohonynt yn berthnasol.

(**3**) Cyfarwyddeb y Cyngor 89/398/EEC ar gyd-ddynesiad cyfreithiau'r Aelod-wladwriaethau sy'n ymwneud â deunyddiau bwyd a fwriedir at ddefnydd maethol neilltuol (OJ Rhif L186, 30.6.1989, t.27).

(**4**) OJ Rhif L124, 20.5.2009, t.21.

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 Food for Particular Nutritional Uses (Miscellaneous Amendments) (Wales) Regulations 2010.

(2) These Regulations apply in relation to Wales and come into force on 15 March 2010.

Amendment of the Food Labelling Regulations 1996

2.–(1) The Food Labelling Regulations 1996(**2**) are amended in accordance with the following paragraphs in so far as they apply in relation to Wales.

(2) In paragraph (1) of regulation 2 (interpretation)–

(a) omit the definition of "Directive 89/398"(**3**);

(b) immediately after the definition of "Directive 2000/13" insert the following definition–

""Directive 2009/39" means Directive 2009/39/EC of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses(**4**) as amended from time to time;".

(3) In regulation 3 (exemptions), for sub-paragraph (iv) of paragraph (1) substitute the following sub-paragraph–

"(iv) where applicable, the requirements of Directive 87/250, Directive 90/496, Directive 94/54, Directive 99/2 and Directive 2009/39 are met in respect of that food.".

(**1**) OJ No. L31, 1.2.2002, p.1, as 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 - Part Four (OJ No. L188, 18.7.2009, p.14).

(**2**) S.I. 1996/1499, amended by S.I. 1998/1398, S.I. 1999/747, S.I. 2001/1232 (W.66), S.I. 2001/1440 (W.102), S.I. 2003/832 (W.104), S.I. 2004/249 (W.26), S.I. 2004/1396 (W.141), S.I. 2004/2558 (W.229), S.I. 2004/3022 (W.261), S.I. 2005/1309 (W.91), S.I. 2007/2611 (W.222), S.I. 2008/1268 (W.128) and S.I. 2009/2705 (W.224); there are other amending instruments but none is relevant.

(**3**) Council Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses (OJ No. L186, 30.6.1989, p.27).

(**4**) OJ No. L124, 20.5.2009, p.21.

Diwygio Rheoliadau Hysbysiadau o Farchnata Bwyd at Ddefnydd Maethol Neilltuol (Cymru) 2007

3.–(1) Diwygir Rheoliadau Hysbysiadau o Farchnata Bwyd at Ddefnydd Maethol Neilltuol (Cymru) 2007(**1**) yn unol â'r paragraffau a ganlyn.

(2) Ym mharagraff (1) o reoliad 2 (dehongli), yn lle'r diffiniad o "y Gyfarwyddeb" ("*the Directive*") rhodder y diffiniad canlynol–

"ystyr "y Gyfarwyddeb" ("*the Directive*") yw Cyfarwyddeb 2009/39 Senedd Ewrop a'r Cyngor ar ddeunyddiau bwyd a fwriedir at ddefnydd maethol neilltuol, fel y'i diwygir o bryd i'w gilydd;".

(3) Yn rheoliad 3 (cyfyngiad ar werthu)–

(a) yn lle paragraff (1) rhodder y paragraff canlynol–

"(1) Ni chaiff neb, mewn perthynas â chynnyrch bwyd DMN o fath neilltuol–

(a) sydd yn weithgynhyrchydd neu'n fewnforiwr y cyfeirir ato yn Erthygl 11 o'r Gyfarwyddeb, ond

(b) sydd wedi methu â chydymffurfio–

(i) â gofyniad i hysbysu'r awdurdod cymwys, fel y cyfeirir ato yn is-baragraff (a) neu (b) o baragraff (1) o'r Erthygl honno, neu

(ii) â gofyniad i ddangos unrhyw beth i'r awdurdod cymwys, fel y cyfeirir ato yn is-baragraff (c) o baragraff (1) o'r Erthygl honno,

werthu cynnyrch bwyd DMN o'r math hwnnw."; a

(b) yn is-baragraff (b) o baragraff (2) yn lle "Erthygl 9" rhodder "Erthygl 11".

(4) Ym mharagraff (1) o reoliad 4 (datganiad), yn lle "Erthygl 1(2)" rhodder "Erthygl 1(2) a (3)".

Amendment of the Notification of Marketing of Food for Particular Nutritional Uses (Wales) Regulations 2007

3.–(1) The Notification of Marketing of Food for Particular Nutritional Uses (Wales) Regulations 2007(**1**) are amended in accordance with the following paragraphs.

(2) In paragraph (1) of regulation 2 (interpretation), for the definition of "the Directive" ("*y Gyfarwyddeb*") substitute the following definition–

""the Directive" ("*y Gyfarwyddeb*") means Directive 2009/39 of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses as amended from time to time;".

(3) In regulation 3 (restriction on sale)–

(a) for paragraph (1) substitute the following paragraph–

"(1) No person who, in respect of a PNU food product of a particular type–

(a) is a manufacturer or an importer referred to in Article 11 of the Directive, but

(b) has failed to comply with–

(i) a requirement to notify the competent authority, as referred to in sub-paragraph (a) or (b) of paragraph (1) of that Article, or

(ii) a requirement to produce anything to the competent authority, as referred to in sub-paragraph (c) of paragraph (1) of that Article,

shall sell a PNU food product of that type."; and

(b) in sub-paragraph (b) of paragraph (2) for "Article 9" substitute "Article 11".

(4) In paragraph (1) of regulation 4 (declaration), for "Article 1(2)" substitute "Article 1(2) and (3)".

Gwenda Thomas

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

17 Chwefror 2010

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

17 February 2010

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(**1**) O.S. 2007/1040 (Cy.100).

(**1**) S.I. 2007/1040 (W.100).

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BWYD, CYMRU

Rheoliadau Bwyd at Ddefnydd Maethol Neilltuol (Diwygiadau Amrywiol) (Cymru) 2010

WELSH STATUTORY INSTRUMENTS

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FOOD, WALES

The Food for Particular Nutritional Uses (Miscellaneous Amendments) (Wales) Regulations 2010

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