



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2007 Rhif 2611 (Cy.222)

2007 No. 2611 (W.222)

BWYD, CYMRU

FOOD, WALES

**Rheoliadau Honiadau am Faethiad
ac Iechyd (Cymru) 2007**

**The Nutrition and Health Claims
(Wales) Regulations 2007**

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, sy'n gymwys o ran Cymru, yn darparu ar gyfer gweithredu a gorfodi Rheoliad (EC) Rhif 1924/2006 Senedd Ewrop a'r Cyngor ar honiadau am faethiad ac iechyd a weir am fwydydd, fel y'i cywirwyd gan Gorigendwm (OJ Rhif L12, 18.1.2007, t3), "Rheoliad y GE".

1. These Regulations, which apply in relation to Wales, make provision for the execution and enforcement of Regulation (EC) No 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods, as corrected by a Corrigendum (OJ No. L12, 18.1.2007, p3), "the EC Regulation".

2. Mae'r Rheoliadau-

2. The Regulations -

- (a) yn dynodi'r awdurdodau cymwys at ddiibenion Erthyglau penodol Rheoliad y GE (rheoliad 3);
- (b) yn pennu'r awdurdodau gorfodi (rheoliad 4);
- (c) yn darparu ei bod yn dramgwydd, yn ddarostyngedig i randdirymiadau penodol a mesurau trosiannol a bennir yn Rheoliad y GE lle y bo'n berthnasol-
 - (i) i wneud honiadau am faethiad neu iechyd nad ydynt yn gyffredinol yn cydymffurfio â gofynion Rheoliad y GE ac yn benodol sydd yn gamarweiniol neu wneud honiad o fathau gwaharddedig penodol;
 - (ii) i wneud honiadau am ddiodydd alcoholaidd ac eithrio i'r graddau cyfyngedig iawn a ganiateir gan Rheoliad y GE;
 - (iii) i wneud honiad na ellir ei gyfiawnhau'n wyddonol;
 - (iv) i fethu â darparu'r wybodaeth faethol a ragnodwyd wrth wneud honiad am iechyd;

- (a) designate the competent authorities for the purposes of certain Articles of the EC Regulation (regulation 3);
- (b) specify the enforcement authorities (regulation 4);
- (c) provide that, subject to certain derogations and transitional measures specified in the EC Regulation where relevant, it is an offence -
 - (i) to make nutrition or health claims that do not in general comply with the requirements of the EC Regulation and in particular that are misleading or make certain specifically prohibited types of claim;
 - (ii) to make claims on alcoholic drinks other than to the very limited extent permitted by the EC Regulation;
 - (iii) to make a claim which cannot be scientifically justified;
 - (iv) to fail to provide the prescribed nutrition information when making a health claim;

- (v) i wneud honiad maethol nad yw'n un o'r rhai a restrir yn yr Atodiad i Reoliad y GE;
- (vi) i wneud honiad maethol cymharol nad yw'n cydymffurfio â gofynion Rheoliad y GE;
- (vii) i wneud honiad am iechyd nad awdurdodwyd o dan y gweithdrefnau a ddarperir yn Rheoliad y GE ac nad yw'r wybodaeth benodedig gydag ef yn y labelu neu mewn unrhyw ddull arall o'i gyflwyno;
- (viii) i wneud honiad am iechyd o fath a waherddir yn benodol gan Reoliad y GE; neu
- (ix) yn achos honiadau am iechyd o ran lleihau risg rhag clefyd, i fethu â rhoi gyda'r honiad y datganiad a ragnodir yn Rheoliad y GE (rheoliad 5).

3. Mae'r Rheoliadau hefyd-

- (a) yn cymhwysio darpariaethau penodol o Ddeddf Diogelwch Bwyd 1990 at ddibenion y Rheoliadau hyn (rheoliad 6);
- (b) yn darparu ei bod, yn ddarostyngedig i derfynau penodol, yn dramgwydd i rwystro, methu â rhoi gwybodaeth neu gamarwain yn fwriadol unrhyw un sy'n gweithredu ac yn gorfodi'r Rheoliadau hyn (rheoliad 7); ac
- (c) yn diwygio Rheoliadau Labelu Bwyd 1996 ynghylch y meysydd lle y mae goryffwrdd rhwng y Rheoliadau hynny a Rheoliad y GE (rheoliad 8).

4. Mae asesiad effaith rheoleiddiol llawn o'r effaith y bydd yr offeryn hwn yn ei gael ar gostau busnes ar gael gan yr Asiantaeth Safonau Bwyd, Llawr 11, Southgate House, Wood Street, Caerdydd, CF10 1EW.

- (v) to make a nutrition claim which is not one of the ones listed in the Annex to the EC Regulation;
- (vi) to make a comparative nutrition claim that does not comply with the requirements of the EC Regulation;
- (vii) to make a health claim that is not authorised under the procedures provided for in the EC Regulation and is not accompanied by certain specified information in the labelling or other presentation;
- (viii) to make a health claim of a type specifically prohibited by the EC Regulation; or
- (ix) in the case of health claims relating to the reduction of disease risk, to fail to accompany the claim with the statement prescribed in the EC Regulation (regulation 5).

3. The Regulations also -

- (a) apply certain provisions of the Food Safety Act 1990 for the purposes of these Regulations (regulation 6);
- (b) provide that, subject to certain limitations, it is an offence to obstruct, fail to give information to or intentionally mislead anyone executing and enforcing these Regulations (regulation 7); and
- (c) make an amendment to the Food Labelling Regulations 1996 relating to the areas where there is some overlap between those Regulations and the EC Regulation (regulation 8).

4. A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Food Standards Agency, 11th Floor, Southgate House, Cardiff CF10 1EW.

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**Rheoliadau Honiadau am Faethiad
ac Iechyd (Cymru) 2007**

**The Nutrition and Health Claims
(Wales) Regulations 2007**

Gwnaed 6 Medi 2007
*Gosodwyd gerbron
Cynulliad Cenedlaethol Cymru* 7 Medi 2007
Yn dod i rym 1 Hydref 2007

Made 6 September 2007
*Laid before the National
Assembly for Wales* 7 September 2007
Coming into force 1 October 2007

Mae Gweinidogion Cymru'n gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd gan adrannau 16(1)(e) ac (f), 17(2), 26(1)(a) a (3) a 48(1) o Ddeddf Diogelwch Bwyd 1990(1).

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

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

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

Fel sy'n ofynnol o dan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor, sy'n gosod egwyddorion cyffredinol a gofynion cyfraith bwyd, ac yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn pennu gweithdrefnau o ran materion diogelwch bwyd(2), cafwyd ymgynghori agored a thryloyw â'r cyhoedd yn ystod cyfnod paratoi a gwerthuso'r Rheoliadau hyn.

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(2), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Enwi, cymhwyso a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Honiadau am Faethiad ac Iechyd (Cymru) 2007, maent yn gymwys o ran Cymru a deuant i rym ar 1 Hydref 2007.

Title, application and commencement

1. These Regulations are called the Nutrition and Health Claims (Wales) Regulations 2007, apply in relation to Wales and come into force on 1st October 2007.

(1) 1990 p. 16. Amnewidiwyd adran 1(1) a (2) (diffiniad o "food") gan O.S. 2004/2990. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol, 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. Trosglwyddwyd y swyddogaethau hynny i Weinidogion Cymru gan adran 162 ac Atodlen 11, paragraff 30 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(2) OJ Rhif L31, 1.2.2002, t.1. Diwygiwyd y Rheoliad hwnnw ddiwethaf gan Reoliad (EC) Rhif 575/2006 (OJ Rhif L100, 8.4.2006, t.3).

(1) 1990 c. 16. Section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990. Functions of the Secretary of State, 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. Those functions were transferred to Welsh Ministers by section 162 and Schedule 11, paragraph 30 of the Government of Wales Act 2006 (c.32).

(2) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p.3).

Dehongli

2.-(1) Yn y Rheoliadau hyn -

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

mae i "awdurdod bwyd" yr ystyr sydd i "*food authority*" yn adran 5(1A) a (3)(a) a (b) o'r Ddeddf;

ystyr "awdurdod iechyd porthladd" ("*port health authority*") mewn perthynas ag unrhyw ardal iechyd porthladd a sefydlwyd drwy orchymyn o dan adran 2(3) o Ddeddf Iechyd y Cyhoedd (Rheoli Clefydau) 1984, yw awdurdod iechyd porthladd ar gyfer yr ardal honno a sefydlwyd drwy orchymyn o dan adran 2(4) o'r Ddeddf honno;

ystyr "y Rheoliad" ("*the Regulation*") yw Rheoliad (EC) Rhif 1924/2006 Senedd Ewrop a'r Cyngor ar honiadau am faethiad ac iechyd a wneir am fwydydd(1).

(2) Mae i ymadroddion a ddefnyddir yn y Rheoliadau hyn ac yn y Rheoliad yr un ystyr yn y Rheoliadau hyn ag sydd iddynt yn y Rheoliad hwnnw.

(3) Mae unrhyw gyfeiriad at Erthygl â rhif yn gyfeiriad at yr Erthygl sy'n dwyn y rhif hwnnw yn y Rheoliad.

Awdurdodau Cymwys

3. Yr awdurdod cymwys at ddibenion y Rheoliad -

(a) o ran Erthyglau 1(4), 15(2), 16(2) a 18(2) yw'r Asiantaeth Safonau Bwyd, a

(b) o ran Erthygl 6(3) yw -

- (i) pob awdurdod iechyd porthladd yn ei ddosbarth, a
- (ii) y tu allan i'r cyfryw ddosbarthau, pob awdurdod bwyd yn ei ardal.

Gorfodi

4. Rhaid i bob awdurdod iechyd porthladd o fewn ei ddosbarth a phob awdurdod bwyd o fewn ei ardal weithredu a gorfodi darpariaethau'r Rheoliadau hyn a'r Rheoliad.

Tramgwyddau a Chosbau

5.-(1) Yn ddarostyngedig i'r rhanddirymiad a geir yn Erthygl 1(3) (ynghylch nodau masnach etc) ac i'r mesurau trosiannol a geir yn Erthygl 28, mae unrhyw berson sydd yn mynd yn groes i ddarpariaethau'r Rheoliad a bennir ym mharagraff (2) neu sy'n methu cydymffurfio â hwy yn euog o dramgwydd ac yn atebol -

Interpretation

2.-(1) In these Regulations -

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

"food authority" ("*awdurdod bwyd*") has the same meaning as in section 5(1A) and (3)(a) and (b) of the Act;

"port health authority" ("*awdurdod iechyd porthladd*") means in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984, a port health authority for that district constituted by order under section 2(4) of that Act.

"the Regulation" ("*y Rheoliad*") means Regulation (EC) No. 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods(1).

(2) Expressions used in these Regulations and in the Regulation have the same meaning in these Regulations as they do in that Regulation.

(3) Any reference to a numbered Article is a reference to the Article so numbered in the Regulation.

Competent Authorities

3. The competent authority for the purposes of the Regulation -

(a) in relation to Articles 1(4), 15(2), 16(2) and 18(2) is the Food Standards Agency, and

(b) in relation to Article 6(3) is -

- (i) each port health authority in its district, and
- (ii) outside such districts, each food authority in its area.

Enforcement

4. Each port health authority within its district and each food authority within its area must execute and enforce the provisions of these Regulations and of the Regulation.

Offences and Penalties

5.-(1) Subject to the derogation contained in Article 1(3) (relating to trade marks etc) and to the transitional measures contained in Article 28, any person who contravenes or fails to comply with the provisions of the Regulation specified in paragraph (2) is guilty of an offence and liable -

(1) Mae testun diwgiedig y Rheoliad hwn bellach wedi'i osod mewn Corrigendwm (OJ Rhif L12, 18.1.2007, t.3).

(1) The revised text of this Regulation is now set out in a Corrigendum (OJ No. L12, 18.1.2007, p.3).

- (a) o'i gollfarnu ar ddiad i gyfnod yn y carchar nad yw'n hwy na dwy flynedd neu i ddirwy, neu i'r ddau.
- (b) o'i gollfarnu'n ddiannod i gyfnod yn y carchar nad yw'n hwy na thri mis, neu i ddirwy nad yw'n fwy na'r uchafswm statudol, neu i'r ddau.

(2) Dyma'r darpariaethau a bennir-

- (a) Erthygl 3 (gofynion cyffredinol ynghylch pob honiad);
- (b) Erthygl 4(3) (cyfyngiadau ar honiadau a all gael eu gwneud am ddiodydd alcoholaidd);
- (c) Erthygl 6(2) (gofyniad i gyfiawnhau defnyddio honiadau);
- (ch) Erthygl 7 (gofynion ar gyfer gwybodaeth faethol);
- (d) Erthygl 8(1) (gofynion ar gyfer honiadau maethol);
- (dd) Erthygl 9 (gofynion ar gyfer honiadau cymharol);
- (e) Erthygl 10(1), (2) a (3) (gofynion ar gyfer honiadau am iechyd);
- (f) Erthygl 12 (gwahardd honiadau penodol am iechyd); ac
- (ff) Erthygl 14(2) (gofynion ar gyfer honiadau i leihau risg clefydau).

Cymhwyso amrywiol ddarpariaethau'r Ddeddf

6. 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 Ran ohoni i'w ddehongli fel cyfeiriad at y Rheoliadau hyn-

- (a) adran 2 (ystyr estynedig "sale" etc.);
- (b) adran 3 (rhagdybiaeth bod bwyd wedi'i fwriadu ar gyfer ei fwyta gan bobl);
- (c) adran 20 (tramgwyddau oherwydd bai person arall);
- (ch) adran 21 (amddiffyniad diwydrwydd dyladwy), fel y mae'n gymwys at ddibenion adran 14 neu 15;
- (d) adran 22 (amddiffyn cyhoeddi yng nghwrs busnes);
- (dd) adran 30(8) (sy'n ymwneud â thystiolaeth ddogfennol);
- (e) adran 34 (terfyn amser ar gyfer erlyn);
- (f) adran 36 (tramgwyddau gan gyrff corfforaethol);
- (ff) adran 36A (tramgwyddau gan bartneriaethau Albanaidd); ac
- (g) adran 44 (amddiffyn swyddogion sy'n gweithredu'n ddidwyll).

- (a) on conviction on indictment to a term of imprisonment not exceeding two years or to a fine or both;
- (b) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum or both.

(2) The specified provisions are -

- (a) Article 3 (general requirements relating to all claims);
- (b) Article 4(3) (restrictions on claims that may be made on alcoholic beverages);
- (c) Article 6(2) (requirement for use of claims to be justified);
- (d) Article 7 (requirements for nutrition information);
- (e) Article 8(1) (requirements for nutrition claims);
- (f) Article 9 (requirements for comparative claims);
- (g) Article 10(1), (2) and (3) (requirements for health claims);
- (h) Article 12 (prohibition of certain health claims); and
- (i) Article 14(2) (requirements for reduction of disease risk claims).

Application of various provisions of the Act

6. 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 -

- (a) section 2 (extended meaning of "sale" etc);
- (b) section 3 (presumption that food is intended for human consumption);
- (c) section 20 (offences due to the fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 14 or 15;
- (e) section 22 (defence of publication in the course of business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 34 (time limit for prosecution);
- (h) section 36 (offences by bodies corporate);
- (i) section 36A (offences by Scottish partnerships); and
- (j) section 44 (protection of officers acting in good faith).

Rhwystro swyddogion a darparu gwybodaeth etc

7.-(1) Bydd unrhyw berson sydd -

- (a) yn fwriadol yn rhwystro unrhyw berson sy'n gweithredu i roi'r Rheoliadau hyn ar waith; neu
- (b) heb achos rhesymol, yn methu â rhoi i unrhyw berson sy'n gweithredu i roi'r Rheoliadau hyn ar waith unrhyw gymorth neu wybodaeth y mae'r person hwnnw yn rhesymol ofyn amdano,

yn euog o dramgwydd ac yn atebol ar gollfarn ddiannod i gyfnod yn y carchar na fydd yn hwy na thri mis neu i ddirwy na fydd yn fwy na lefel 5 ar y raddfa safonol neu i'r ddau.

(2) Bydd unrhyw berson sydd, yn cydymffurfio'n honedig ag unrhyw ofyniad a grybwyllir ym mharagraff (1)(b), gan wybod neu yn ddi-hid yn rhoi gwybodaeth sy'n anwir neu'n gamarweiniol mewn unrhyw fanylyn o bwys, yn euog o dramgwydd ac yn atebol -

- (a) o'i gollfarnu ar ddiad i gyfnod yn y carchar nad yw'n hwy na dwy flynedd neu i ddirwy, neu i'r ddau.
- (b) o'i gollfarnu'n ddiannod i gyfnod yn y carchar nad yw'n hwy na thri mis, neu i ddirwy nad yw'n fwy na'r uchafswm statudol, neu i'r ddau;

(3) Ni chaniateir dehongli dim ym mharagraff (1)(b) fel pe bai'n ei gwneud yn ofynnol i unrhyw berson ateb unrhyw gwestiwn neu roi unrhyw wybodaeth os byddai gwneud hynny yn gallu argyhuddo'r person hwnnw.

Diwygio Rheoliadau Labelu Bwyd

8.-(1) Diwygir Rheoliadau Labelu Bwyd 1996(1) o ran Cymru yn unol â pharagraff (2).

(2) Ar ôl paragraff (4) o reoliad 41, mewnosoder y paragraff a ganlyn-

"(5) Nothing in regulation 40 or in Schedule 6 or 8 operates to prohibit or, as the case may be, restrict a claim made in accordance with the conditions of Regulation (EC) 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods(2)".

Obstruction of officers and provision of information etc

7.-(1) Any person who -

- (a) intentionally obstructs any person acting in the execution of these Regulations; or
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him or her,

is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding level 5 on the standard scale or both.

(2) Any person who, in purported compliance with any requirement mentioned in paragraph (1)(b), knowingly or recklessly provides information that is false or misleading in any material particular, is guilty of an offence and liable -

- (a) on conviction on indictment, to a term of imprisonment not exceeding two years or to a fine or both;
- (b) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum or both.

(3) Nothing in paragraph (1)(b) may be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

Amendment of the Food Labelling Regulations

8.-(1) The Food Labelling Regulations 1996(1) are amended in relation to Wales in accordance with paragraph (2).

(2) After paragraph (4) of regulation 41, insert the following paragraph -

"(5) Nothing in regulation 40 or in Schedule 6 or 8 operates to prohibit or, as the case may be, restrict a claim made in accordance with the conditions of Regulation (EC) 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods(2)".

(1) O.S. 1996/1499. Cafwyd diwygiadau ir Rheoliadau hyn, ond nid ydynt yn berthnasol.

(2) Ceir testun diwgiedig y Rheoliad hwn bellach mewn Corrigendwm, OJ Rhif L12, 18.1.2007, t.3).

(1) S.I. 1996/1499. There have been amendments to these Regulations, but none are relevant.

(2) The revised text of this Regulation is now set out in a corrigendum (OJ No. L12, 18.1.2007, p.3).

G. Thomas

O dan awdurdod y Gweinidog dros Iechyd a
Gwasanaethau Cymdeithasol, un o Weinidogion
Cymru.

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

6 Medi 2007

6 September 2007

WELSH

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