WELSH STATUTORY INSTRUMENTS

# 2012 No. 1765 (W.225)

# FOOD, WALES

## The Food Hygiene (Wales) (Amendment) (No. 2) Regulations 2012

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| *Made - - - -* | *4 July 2012* |
| *Laid before the National Assembly for Wales - -* | *6 July 2012* |
| *Coming into force - -* | *30 July 2012* |

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 16(1)(e) and 48(1) of the Food Safety Act 1990(**1**) and section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972(**2**).

The Welsh Ministers have been designated for the purposes of that section in relation to measures relating to food (including drink) including the primary production of food(**3**).

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 any reference to an EU instrument defined in Schedule 1 to be construed in accordance with regulation 2(3) as a reference to that instrument 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. 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(**4**) there has been open and transparent public consultation during the preparation of the following Regulations.

(**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 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**) 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, functions conferred on the National Assembly for Wales by this designation are transferred to the Welsh Ministers.

(**4**) 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: Adaptation to the regulatory procedure with scrutiny—Part Four (OJ No. L188, 18.7.2009, p.14).

### Title and commencement

**1.** The title of these Regulations is the Food Hygiene (Wales) (Amendment) (No. 2) Regulations 2012 and they come into force on 30 July 2012.

### Amendments to the Food Hygiene (Wales) Regulations 2006

**2.**—(1) The Food Hygiene (Wales) Regulations 2006(**5**) are amended in accordance with paragraphs (2) to (6).

(2) In paragraph (1) of regulation 2 (interpretation) for the references to the EU instruments appearing immediately after the definition of "premises" substitute the following references—

> ""Decision 2006/766" ("*Penderfyniad 2006/766*"), "Decision 2011/131" ("*Penderfyniad 2011/131*"), "Directive 2004/41" ("*Cyfarwyddeb 2004/41*"), "Regulation 178/2002" ("*Rheoliad 178/2002*"), "Regulation 852/2004" ("*Rheoliad 852/2004*"), "Regulation 853/2004" ("*Rheoliad 853/2004*"), "Regulation 854/2004" ("*Rheoliad 854/2004*"), "Regulation 882/2004" ("*Rheoliad 882/2004*"), "Regulation 1688/2005" ("*Rheoliad 1688/2005*"), "Regulation 2073/2005" ("*Rheoliad 2073/2005*"), "Regulation 2074/2005" ("*Rheoliad 2074/20005*"), "Regulation 2075/2005" ("*Rheoliad 2075/2005*"), "Regulation 1020/2008" ("*Rheoliad 1020/2008*"), "Regulation 1021/2008" ("*Rheoliad 1021/2008*"), "Regulation 219/2009" ("*Rheoliad 219/2009*"), "Regulation 596/2009" ("*Rheoliad 596/2009*"), "Regulation 669/2009" ("*Rheoliad 669/2009*"), "Regulation 1162/2009" ("*Rheoliad 1162/2009*"), "Regulation 739/2011" ("*Rheoliad 739/2011*"), "Regulation 809/2011" ("*Rheoliad 809/2011*"), "Regulation 880/2011" ("*Rheoliad 880/2011*"), "Regulation 1086/2011" ("*Rheoliad 1086/2011*"), "Regulation 1109/2011" ("*Rheoliad 1109/2011*"), "Regulation 1169/2011" ("*Rheoliad 1169/2011*"), "Regulation 1223/2011" ("*Rheoliad 1223/2011*"), "Regulation 1277/2011" ("*Rheoliad 1277/2011*"), "Regulation 16/2012" ("*Rheoliad 16/2012*") and "Regulation 28/2012" ("*Rheoliad 28/2012*") have the meanings respectively given to them in Schedule 1;".

(3) Immediately after paragraph (5) of regulation 2 insert the following paragraph—

> "(6) In these Regulations, any reference to an EU instrument defined in Schedule 1 is a reference to that instrument as any annex to it may be amended from time to time."

(4) Immediately after regulation 32 (restrictions on the sale of raw milk intended for direct human consumption and amendments to the Food Labelling Regulations 1996) insert the following regulation—

> "**Special health mark**
>
> **32A.** The special health mark referred to in paragraph 9 of Chapter VI of Section I of Annex III to Regulation 853/2004 and paragraph 7 of Chapter III of Section I of Annex I to Regulation 854/2004 must conform with Schedule 6A."

(5) For Schedule 1 (definitions of EU Legislation) substitute the Schedule set out in Schedule 1 to these Regulations.

(6) Immediately after Schedule 6 (restrictions on the sale of raw milk intended for direct human consumption) insert the Schedule set out in Schedule 2 to these Regulations.

(**5**) S.I. 2006/31 (W.5), amended by S.I. 2006/1534 (W.151), S.I. 2007/373 (W.33), S.I. 2010/893 (W.92) and S.I. 2012/975 (W.129).

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

4 July 2012

SCHEDULE 1 Regulation 2(5)

SCHEDULE SUBSTITUTED FOR SCHEDULE 1 TO THE FOOD HYGIENE (WALES) REGULATIONS 2006

"SCHEDULE 1 Regulation 2(1)

DEFINITIONS OF EU LEGISLATION

"Decision 2006/766" ("*Penderfyniad 2006/766*") means Commission Decision 2006/766/EC establishing the lists of third countries and territories from which imports of bivalve molluscs, echinoderms, tunicates, marine gastropods and fishery products are permitted(**6**) as last amended by Decision 2011/131;

"Decision 2011/131" ("*Penderfyniad 2011/131*") means Commission Decision 2011/131/EU amending Annexe II to Decision 2006/766/EC as regards the inclusion of Fiji in the list of third countries and territories from which imports of fishery products for human consumption are permitted(**7**);

"Directive 2004/41" ("*Cyfarwyddeb 2004/41*") means Directive 2004/41/EC of the European Parliament and of the Council repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC(**8**);

"Regulation 178/2002" ("*Rheoliad 178/2002*") means 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(**9**) as last amended by Regulation 596/2009;

"Regulation 852/2004" ("*Rheoliad 852/2004*") means Regulation (EC) No. 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs(**10**) as last amended by Regulation 219/2009 and as read with Regulation 2073/2005;

"Regulation 853/2004" ("*Rheoliad 853/2004*") means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(**11**) as last amended by Regulation 16/2012 and as read with Directive 2004/41, Regulation 1688/2005, Regulation 2074/2005, Regulation 2076/2005, Regulation 1020/2008 and Regulation 1162/2009;

"Regulation 854/2004" ("*Rheoliad 854/2004*") means Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption(**12**) as last amended by Regulation 739/2011 and as read with Directive 2004/41, Regulation 2074/2005, Regulation 2075/2005, Regulation 2076/2005, Decision 2006/766, Regulation 1021/2008 and Regulation 1162/2009;

"Regulation 882/2004" ("*Rheoliad 882/2004*") means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the

(**6**) OJ No. L320, 18.11.2006, p.53.
(**7**) OJ No. L53, 26.2.2011, p.73.
(**8**) OJ No. L157, 30.4.2004, p.33. The revised text of Directive 2004/41/EC is now set out in a Corrigendum (OJ No. L195, 2.6.2004, p.12).
(**9**) OJ No. L31, 1.2.2002, p.1.
(**10**) OJ No. L139, 30.4.2004, p.1. The revised text of Regulation (EC) No. 852/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.3) which is to be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.26).
(**11**) OJ No. L139, 30.4.2004, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.22) which is to be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.26).
(**12**) OJ No. L139, 30.4.2004, p.206. The revised text of Regulation (EC) No. 854/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.83) which is to be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.26).