
WELSH STATUTORY INSTRUMENTS

2011 No. 1719 (W.195)

FOOD, WALES

The Poultrymeat (Wales) Regulations 2011

<i>Made</i>	- - - -	<i>12 July 2011</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>14 July 2011</i>
<i>Coming into force</i>	- -	<i>15 August 2011</i>

The Welsh Ministers are designated ^{F1} for the purposes of section 2(2) of the European Communities Act 1972 ^{F2} in relation to the common agricultural policy of the European Union.

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 references in these Regulations to the following Regulations to be construed as references to those Regulations as amended from time to time—

- (a) Part B of Annex XIV to Council Regulation (EC) No 1234/2007^{F3} establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation); and
- (b) Commission Regulation (EC) No 543/2008^{F4} laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat.

Insofar as these Regulations are made in exercise of powers under the Food Safety Act 1990 ^{F5}, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency as required by section 48(4A) ^{F6} of the Food Safety Act 1990.

There has been open and transparent public consultation during the preparation of the following Regulations as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council ^{F7} 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.

The Welsh Ministers, in whom the powers conferred by sections 6(4), 16(1), 17, 26(2) and (3), 45(1) and 48(1) ^{F8} of the Food Safety Act 1990 are now vested ^{F9}, make these Regulations in exercise of those powers and the powers conferred by section 2(2) of, and paragraph 1A ^{F10} of Schedule 2 to, the European Communities Act 1972.

F1 By virtue of article 3 of the European Communities (Designation) (No. 5) Order 2010, [S.I. 2010/2690](#).

F2 [1972 c. 68](#). Section 2(2) was amended by section 27(1)(a) of the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#) and Part 1 of the Schedule to the [European Union \(Amendment\) Act 2008 \(c. 7\)](#).

F3 OJ No L 299, 16.11.2007, p.1, last amended by Commission Regulation (EU) No 513/2010 (OJ No L 150, 16.6.2010, p.40).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Poultrymeat (Wales) Regulations 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F4** OJ No L 157, 17.6.2008, p.46, last amended by Commission Regulation (EU) No 557/2010 (OJ No L 159, 25.6.2010, p. 13).
- F5** [1990 c. 16](#).
- F6** Sub-section (4A) of section 48 was inserted by paragraph 21 of Schedule 5 to the [Food Standards Act 1999 \(c. 28\)](#).
- F7** OJ No L 31, 1.2.2002, p. 1, last amended by Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p. 14).
- F8** Section 6(4) was amended by paragraph 6 of Schedule 9 to the [Deregulation and Contracting Out Act 1994 \(c. 40\)](#), paragraphs 7, 10(1) and (3) of Schedule 5, and Schedule 6, to the Food Standards Act 1999 (“the 1999 Act”) and [S.I. 2002/794](#). Section 16(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act. Section 17 was amended by paragraphs 7, 8 and 12 of Schedule 5 to the 1999 Act. Section 26(2) was amended by paragraph 13 of Schedule 8, and Part 1 of Schedule 23, to the [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#). Section 26(3) has been partially repealed by Schedule 6 to the 1999 Act. Section 45(1) was amended by paragraphs 8 and 20 of Schedule 5 to the 1999 Act. Section 48(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act.
- F9** Functions of “the Ministers”, so far as exercisable in relation to Wales, are now exercisable by the Welsh Ministers, having been transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, 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, and then transferred to the Welsh Ministers by section 162 of and paragraph 30(2)(a) of Schedule 11 to the [Government of Wales Act 2006 \(c. 32\)](#).
- F10** Paragraph 1A of Schedule 2 was inserted by section 28 of the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#).

Title, commencement and application

- 1.—(1) The title of these Regulations is the Poultrymeat (Wales) Regulations 2011.
- (2) These Regulations come into force on 15 August 2011 and apply in relation to Wales.
- (3) These Regulations apply to poultrymeat described in [^{F11}point I of Part V of Annex VII to Regulation (EU) 2013], excluding poultrymeat described in point I(2) of [^{F12}Part B of Annex XIV to the Single CMO Regulation].
- (4) These Regulations do not apply to the direct supply of small quantities of poultrymeat by a producer with an annual production of under 10,000 birds where the meat—
- (a) comes from poultry slaughtered on the producer's farm; and
 - (b) is supplied to—
 - (i) the final consumer; or
 - (ii) a local retail establishment directly supplying such meat to the final consumer as fresh meat.

- F11** Words in reg. 1(3) substituted (1.1.2014) by [The Single Common Market Organisation \(Consequential Amendments\) \(Wales\) Regulations 2013 \(S.I. 2013/3270\)](#), regs. 1(c), [8\(2\)\(a\)](#)
- F12** Words in reg. 1(3) substituted (1.1.2014) by [The Single Common Market Organisation \(Consequential Amendments\) \(Wales\) Regulations 2013 \(S.I. 2013/3270\)](#), regs. 1(c), [8\(2\)\(b\)](#)

Interpretation

- 2.—(1) In these Regulations—
- “the Agency” (“*yr Asiantaeth*”) means the Food Standards Agency;
- “authorised officer” (“*swyddog awdurdodedig*”) means any person who has written authority from an enforcement authority to act in matters arising under these Regulations;

“Commission Regulation” (“*Rheoliad y Comisiwn*”) means Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat, as amended from time to time;

“contravene” (“*torri*”) includes failure to comply, and “contravention” (“*toriad*”) is to be construed accordingly;

“enforcement authority” (“*awdurdod gorfodi*”) means an authority exercising a function conferred on it by regulation 9;

“European poultrymeat provision” (“*darpariaeth cig dofednod Ewropeaidd*”) means a provision of the Single CMO Regulation [^{F13}or Regulation (EU) 2013] or the Commission Regulation specified in column 1 of Part 1 or 2 of Schedule 1, as read with any provision mentioned in the corresponding entry in column 2 of Part 1 or 2 of that Schedule;

“officer” (“*swyddog*”)—

- (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body; and
- (b) in relation to an unincorporated body, means any member of its governing body or a chief executive, manager or other similar officer of the body;

[^{F14}“poultrymeat” (“*cig dofednod*”) has the meaning given by point II(1) of Part V of Annex VII to Regulation (EU) 2013;]

“premises” (“*mangre*”) means any place, including those requiring inspection under Article 12(5)(a) to (d) of the Commission Regulation, and any vehicle, trailer, stall or moveable structure;

[^{F15}“Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) means [^{F16}Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products], as amended from time to time;]

“Single CMO Regulation” (“*y Rheoliad CMO Sengl*”) means Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

(2) In these Regulations, any reference to Part B of Annex XIV to the Single CMO Regulation is a reference to Part B of Annex XIV to the Single CMO Regulation as amended from time to time.

(3) Other expressions used in these Regulations and in the Single CMO Regulation [^{F17}or Regulation (EU) 2013] or the Commission Regulation have the same meaning in these Regulations as in the European Regulation in which they are used.

- | | |
|------------|---|
| F13 | Words in reg. 2(1) inserted (1.1.2014) by The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013 (S.I. 2013/3270), regs. 1(c), 8(3)(a)(i) |
| F14 | Words in reg. 2(1) substituted (1.1.2014) by The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013 (S.I. 2013/3270), regs. 1(c), 8(3)(a)(ii) |
| F15 | Words in reg. 2(1) inserted (1.1.2014) by The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013 (S.I. 2013/3270), regs. 1(c), 8(3)(a)(iii) |
| F16 | Words in reg. 2(1) substituted (28.3.2019) by The Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 (S.I. 2019/463), regs. 1(3), 25 |
| F17 | Words in reg. 2(3) inserted (1.1.2014) by The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013 (S.I. 2013/3270), regs. 1(c), 8(3)(b) |

Offences

3. A person is guilty of an offence if that person contravenes a provision of the Commission Regulation referred to in column 1 of Schedule 2, as read with any provision mentioned in the corresponding entry in column 2 of that Schedule.

Temperature requirement for fresh poultrymeat

4.—(1) Poultrymeat that is cut and handled in premises of the type mentioned in paragraph (2) and is marketed on those premises as fresh poultrymeat must be kept on those premises at a temperature not below — 2°C and not higher than 8°C ^{F18}.

(2) The type of premises are—

- (a) retail shops; and
- (b) premises adjacent to sales points,

where the cutting and handling are performed solely for the purpose of supplying the consumer directly on the spot.

F18 This derogates from the provisions of point II(2) of Part B of Annex XIV to the Single CMO Regulation.

Registration as required by Article 12 of the Commission Regulation

5.—(1) The Welsh Ministers are designated as the competent authority for the purpose of registration of slaughterhouses and producers as required by Article 12 of the Commission Regulation.

(2) Any person who wishes to operate as—

- (a) a slaughterhouse; or
- (b) a producer,

authorised to use the terms specified in Article 11 of the Commission Regulation may make an application in writing to the Welsh Ministers.

(3) Where the Welsh Ministers receive an application for registration the Welsh Ministers must notify the applicant in writing of the matters specified in paragraph (4) without unreasonable delay.

(4) The specified matters are—

- (a) the decision of the Welsh Ministers on the application;
- (b) the reasons for any refusal of registration; and
- (c) the right of appeal conferred by regulation 6 in the case of any refusal of registration.

(5) Where the Welsh Ministers decide to cancel a registration, the Welsh Ministers must notify the producer, or the person carrying on the business of the slaughterhouse concerned, as the case may be, of the matters specified in paragraph (6).

(6) The specified matters are—

- (a) the decision of the Welsh Ministers to cancel the registration;
- (b) the date on which the cancellation is to take effect;
- (c) the reasons for the cancellation; and
- (d) the right of appeal conferred by regulation 6.

Appeals against registration decisions

6.—(1) Any person who is aggrieved about a decision specified in paragraph (2) may appeal against that decision to a magistrates' court.

(2) The decisions are—

- (a) refusal of registration, or
- (b) cancellation of a registration.

(3) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint and the Magistrates' Courts Act 1980 ^{F19} applies to the proceedings.

(4) The period within which an appeal may be brought against a decision specified in paragraph (2) is 28 days, beginning with the day on which notification of the decision is given.

(5) The cancellation of a registration mentioned in paragraph (2)(b) does not take effect until the time for appealing against it has expired or, if an appeal is lodged, until the appeal is finally disposed of or withdrawn.

F19 1980 c. 43.

Powers of a magistrates' court on appeal

7. On an appeal against a decision by the Welsh Ministers mentioned in regulation 6(2) the magistrates' court may either overturn the decision or confirm the decision.

Water content checks

8.—(1) Except where a water content check required by Article 16(1), (2), (3) or (4) or 20(2), (3) and (4) of the Commission Regulation is carried out by the Agency, such a check must be carried out by the food business operator of the slaughterhouse or cutting plant concerned.

(2) Except where a water content check referred to in paragraph (1) is carried out by the Agency, such a check must be carried out—

- (a) at the food business operator's expense; and
- (b) under the responsibility of, and in accordance with any directions given by, the Agency.

(3) Schedule 3 has effect in relation to the fees payable to the Agency for water content checks carried out by the Agency.

(4) In this regulation “food business operator” (“gweithredwr busnes bwyd”) has the same meaning as in Article 3(3) of Regulation (EC) No 178/2002 of the European Parliament and of the Council ^{F20} 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.

F20 OJ No L 31, 1.2.2002 p. 1, last amended by Regulation (EC) No 596/2009 (OJ No L188, 18.7.2009, p. 14).

Enforcement

9.—(1) The Agency must enforce the European poultrymeat provisions at slaughterhouses and cutting plants.

(2) Subject to paragraphs (3) and (4), a food authority must enforce—

- (a) the European poultrymeat provisions in its area (other than at slaughterhouses and cutting plants); and