WELSH STATUTORY INSTRUMENTS

2010 No. 893 (W.92)

FOOD, WALES

The Food Hygiene (Wales) (Amendment) Regulations 2010

Made - - - -	*18 March 2010*
Laid before the National Assembly for Wales - -	*23 March 2010*
Coming into force - -	*13 April 2010*

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 have been designated for the purposes of that section in relation to measures relating to 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 these Regulations.

Title and commencement

1. The title of these Regulations is The Food Hygiene (Wales) (Amendment) Regulations 2010 and they come into force on 13 April 2010.

Amendments to the Food Hygiene (Wales) Regulations 2006

2.—(1) The Food Hygiene (Wales) Regulations 2006(**4**) are amended in accordance with the following paragraphs.

(2) In paragraph (1) of regulation 2 (interpretation) for the references to the EU instruments appearing immediately after the definition of "premises" there are substituted in the appropriate place in alphabetical order the following references—

(**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, functions conferred on the National Assembly for Wales by this designation are exercisable by the Welsh Ministers.
(**3**) 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).
(**4**) S.I. 2006/31 (W. 5), amended by S.I. 2007/373 (W. 33).

""Decision 2006/766" ("*Penderfyniad 2006/766*"), "Decision 2009/951" ("*Penderfyniad 2009/951*"), "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 2074/2005*"), "Regulation 2075/2005" ("*Rheoliad 2075/2005*"), "Regulation 2076/2005" ("*Rheoliad 2076/2005*"), "Regulation 1662/2006" ("*Rheoliad 1662/2006*"), "Regulation 1663/2006" ("*Rheoliad 1663/2006*"), "Regulation 1664/2006" ("*Rheoliad 1664/2006*"), "Regulation 1666/2006" ("*Rheoliad 1666/2006*"), "Regulation 1791/2006" ("*Rheoliad 1791/2006*"), "Regulation 479/2007" ("*Rheoliad 479/2007*"), "Regulation 1243/2007" ("*Rheoliad 1243/2007*"), "Regulation 1244/2007" ("*Rheoliad 1244/2007*"), "Regulation 1245/2007" ("*Rheoliad 1245/2007*"), "Regulation 1246/2007" ("*Rheoliad 1246/2007*"), "Regulation 1441/2007" ("*Rheoliad 1441/2007*"), "Regulation 439/2008" ("*Rheoliad 493/2008*"), "Regulation 1250/2008" ("*Rheoliad 1250/2008*"), "Regulation 146/2009" ("*Rheoliad 146/2009*"), "Regulation 219/2009" ("*Rheoliad 219/2009*"), "Regulation 596/2009" ("*Rheoliad 596/2009*"), and "Regulation 669/2009" ("*Rheoliad 669/2009*") have the meanings respectively given to them in Schedule 1;".

(3) For regulation 17 (offences and penalties) there is substituted the following regulation—

"**Offences and penalties**

17.—(1) Subject to paragraphs (4) to (8), any person who contravenes or fails to comply with any of the specified Community provisions is guilty of an offence.

(2) Subject to paragraph (3), a person guilty of an offence under these Regulations is liable–

(a) on summary conviction to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.

(3) A person guilty of an offence under regulation 15 is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

(4) Provided the requirements of Schedule 3 are complied with, a person is considered not to have contravened or failed to comply with Article 4(2) of Regulation 852/2004 as read with paragraph 4 of Chapter IV of Annex II to that Regulation (bulk foodstuffs in liquid, granulate or powder form to be transported in receptacles and/or containers/tankers reserved for the transport of foodstuffs).

(5) Provided the requirements of Schedule 3A are complied with, a person is considered not to have contravened or failed to comply with Article 3(1) or 4(1)(a) of Regulation 853/2004 as read in either case with paragraph 5 of Chapter II of Section I of Annex III to that Regulation (food business operators to ensure that slaughterhouses in which domestic ungulates are slaughtered have lockable facilities for the refrigerated storage of detained meat and separate lockable facilities for the storage of meat declared unfit for human consumption).

(6) Provided the requirements of Schedule 3B are complied with, a person is considered not to have contravened or failed to comply with Article 3(1) or 4(1)(a) of Regulation 853/2004 as read in either case with paragraph 5 of Chapter II of Section II of Annex III to that Regulation (food business operators to ensure that slaughterhouses in which poultry or lagomorphs are slaughtered have lockable facilities for the refrigerated storage of detained meat and separate lockable facilities for the storage of meat declared unfit for human consumption).

(7) Provided the requirements of Schedule 3C are complied with, a person is considered not to have contravened or failed to comply with Article 3(1) or 4(1)(a) of Regulation 853/2004 as read in either case with paragraph 6 of Chapter II of Section I of Annex III to that Regulation (food business operators to ensure that slaughterhouses in which domestic ungulates are slaughtered have a separate place with appropriate facilities for the cleaning, washing and disinfection of means of transport for livestock unless the competent authority permits them not to have such places and official authorised places and facilities exist nearby).

(8) Provided the requirements of Schedule 3D are complied with, a person is considered not to have contravened or failed to comply with Article 3(1) or 4(1)(a) of Regulation 853/2004 as read in either case with paragraph 6(b) of Chapter II of Section II of Annex III to that Regulation (food business operators to ensure that slaughterhouses in which poultry or lagomorphs are slaughtered have a separate place with appropriate facilities for the cleaning, washing and disinfection of means of transport unless officially authorised places and facilities exist nearby).".

(4) For Schedule 1 (definitions of Community legislation) there is substituted the Schedule (definitions of EU legislation) set out in Schedule 1 to these Regulations.

(5) Immediately after Schedule 3 (bulk transport in sea-going vessels of liquid oils or fats and the bulk transport by sea of raw sugar) there are inserted the Schedules set out in Schedule 2 to these Regulations.

Gwenda Thomas
Deputy Minister for Social Services, under authority of the Minister for Health and Social Sevices, one of the Welsh Ministers

18 March 2010

SCHEDULE 1 Regulation 2(4)

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

"SCHEDULE 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(**5**) as last amended by Decision 2009/951;

"Decision 2009/951" ("*Penderfyniad 2009/951*") means Commission Decision 2009/951/EU amending Annexes I and II to 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**);

"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 (**7**);

"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(**8**) 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(**9**) as 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(**10**) as amended by Regulation 2074/2005, Regulation 2076/2005, Regulation 1662/2006, Regulation 1791/2006, Regulation 1243/2007 and Regulation 219/2009 and as read with Directive 2004/41, Regulation 1688/2005, Regulation 2074/2005 and Regulation 2076/2005;

"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(**11**) as amended by Regulation 882/2004, Regulation 2074/2005, Regulation 2076/2005, Regulation 1663/2006, Regulation 1791/2006 and Regulation 219/2009 and as read with Directive 2004/41, Regulation 2074/2005, Regulation 2075/2005, Regulation 2076/2005 and Decision 2006/766;

(**5**) OJ No. L320, 18.11.2006, p.53.
(**6**) OJ No. L328, 15.12.2009, p.70.
(**7**) 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).
(**8**) OJ No. L31, 1.2.2002, p.1.
(**9**) 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 must be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.26).
(**10**) 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 must be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.26).
(**11**) 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 must be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.26).

"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 verification of compliance with feed and food law, animal health and animal welfare rules(**12**) as last amended by Regulation 596/2009 and as read with Regulation 2074/2005, Regulation 2076/2005 and Regulation 669/2009;

"Regulation 1688/2005" ("*Rheoliad 1688/2005*") means Commission Regulation (EC) No. 1688/2005 implementing Regulation (EC) No. 853/2004 of the European Parliament and of the Council as regards special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs(**13**);

"Regulation 2073/2005" ("*Rheoliad 2073/2005*") means Commission Regulation (EC) No. 2073/2005 on microbiological criteria for foodstuffs(**14**) as amended by Regulation 1441/2007;

"Regulation 2074/2005" ("*Rheoliad 2074/2005*") means Commission Regulation (EC) No. 2074/2005 laying down implementing measures for certain products under Regulation (EC) No. 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No. 854/2004 of the European Parliament and of the Council and Regulation (EC) No. 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No. 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(**15**) as amended by Regulation 1664/2006, Regulation 1244/2007 and Regulation 1250/2008;

"Regulation 2075/2005" ("*Rheoliad 2075/2005*") means Commission Regulation (EC) No. 2075/2005 laying down specific rules on official controls for Trichinella in meat(**16**) as last amended by Regulation 1245/2007;

"Regulation 2076/2005" ("*Rheoliad 2076/2005*") means Commission Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(**17**) as amended by Regulation 1666/2006, Regulation 479/2007, Regulation 1246/2007, Regulation 439/2008 and Regulation 146/2009;

"Regulation 1662/2006" ("*Rheoliad 1662/2006*") means Commission Regulation (EC) No. 1662/2006 amending Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(**18**);

"Regulation 1663/2006" ("*Rheoliad 1663/2006*") means Commission Regulation (EC) No. 1663/2006 amending 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(**19**);

"Regulation 1664/2006" ("*Rheoliad 1664/2006*") means Commission Regulation (EC) No. 1664/2006 amending Regulation (EC) No. 2074/2005 as regards implementing measures for certain products of animal origin intended for human consumption and repealing certain implementing measures(**20**);

(**12**) OJ No. L165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (OJ No. L191, 28.5.2004, p.1) which must be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.29).
(**13**) OJ No. L271, 15.10.2005, p.17.
(**14**) OJ No. L338, 22.12.2005, p.1, as read with the corrigenda at OJ No. L278, 10.10.2006, p.32 and OJ No. L283, 14.10.2006, p.62.
(**15**) OJ No. L338, 22.12.2005, p.27.
(**16**) OJ No. L338, 22.12.2005, p.60.
(**17**) OJ No. L338, 22.12.2005, p.83.
(**18**) OJ No. L320, 18.11.2006, p.1.
(**19**) OJ No. L320, 18.11.2006, p.11.
(**20**) OJ No. L320, 18.11.2006, p.13.