WELSH STATUTORY INSTRUMENTS

2009 No. 3105 (W.271)

FOOD, WALES

The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2009

Made - - - -	*26 November 2009*
Laid before the National Assembly for Wales - -	*27 November 2009*
Coming into force - -	*19 December 2009*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(2), 17(2), 26(1)(a) and (2)(a) and 48(1) of the Food Safety Act 1990(**1**) which are now vested in them(**2**).

In accordance with section 48(4A) of that Act, they 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(**3**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Title, commencement and application

1.—(1) The title of these Regulations is the Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2009, and they come into force on 19 December 2009.

(2) These Regulations apply in relation to Wales.

(**1**) 1990 c. 16, section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c. 28), "the 1999 Act". Section 48 was also amended by S.I. 2004/2990. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c. 40), Schedule 6 to the 1999 Act and S.I. 2004/2990.

(**2**) Functions of "the Ministers" 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 1999 Act, and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c. 32).

(**3**) OJ No. L31, 1.2.2002, p.1. That Regulation was 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 the Council Decision 1999/468 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).

Amendments to the Materials and Articles in Contact with Food (Wales) Regulations 2007

2. The Materials and Articles in Contact with Food (Wales) Regulations 2007(**4**) are amended in accordance with regulations 3 to 9.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of "Regulation 2023/2006" ("*Rheoliad 2023/2006*") insert the following definition—

""Regulation 450/2009" ("*Rheoliad 450/2009*") means Commission Regulation (EC) No. 450/2009 on active and intelligent materials and articles intended to come into contact with food(**5**);", and

(ii) in the definition of "import" ("*mewnforio*") for "a Member State" substitute "an EEA State"; and

(b) paragraph (2) is omitted.

4. After regulation 4 (enforcement of Regulation 1935/2004) insert the following as regulation 4A—

"**Enforcement of Regulation 450/2009**

4A. Any person who contravenes any of the following provisions of Regulation 450/2009 is guilty of an offence—

(a) Article 4(f) (prohibition on the placing on the market of active and intelligent materials and articles that do not comply with labelling requirements);

(b) Article 11(1) and (2) (additional rules on labelling), as read with the 4th indent of Article 14;

(c) Article 12 (declaration of compliance); and

(d) Article 13 (supporting documentation).".

5. After regulation 6 (competent authorities for the purposes of Regulation 1934/2004), insert the following as regulation 6A—

"**Competent authorities for the purposes of Regulation 450/2009**

6A. The competent authorities for the purposes of Article 13 of Regulation 450/2009 are the Food Standards Agency and the authority having responsibility for enforcement pursuant to regulation 14(1).".

6. In paragraph (2)(a) of regulation 13 (offences and penalties), for "regulation 4 or 5" substitute "regulation 4, 4A or 5".

7. For regulation 14 (enforcement) substitute the following—

"**14.**—(1) Each food authority in its area and each port health authority in its district must execute and enforce—

(a) the provisions of Regulation 1935/2004 mentioned in regulation 4;

(b) the provisions of Regulation 450/2009 mentioned in regulation 4A; and

(c) subject to paragraph (3), these Regulations.

(**4**) S.I. 2007/3252 (W. 287), as amended by S.I. 2008/1237 (W. 124), S.I. 2008/1682 (W. 162) and S.I. 2009/481 (W. 49).
(**5**) OJ No. L135, 30.5.2009, p.3.