WELSH STATUTORY INSTRUMENTS

2008 No. 1341 (W.141)

FOOD, WALES

The Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (Wales) Regulations 2008

Made - - - -	*21 May 2008*
Laid before the National Assembly for Wales - -	*22 May 2008*
Coming into force - -	*1 July 2008*

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

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

Title, application and commencement

1. The title of these Regulations is the Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (Wales) Regulations 2008: they apply in relation to Wales and come into force on 1 July 2008.

Interpretation

2.—(1) In these Regulations —

(**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 26(3) was amended by Schedule 6 to the 1999 Act. 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. Functions formerly exercisable by "the Ministers" so far as they are exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act and thereafter made exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to 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).

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

"the Council Regulation" ("*Rheoliad y Cyngor*") 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)(**3**);

"the Commission Regulation" ("*Rheoliad y Comisiwn*") means Commission Regulation (EC) No.445/2007 laying down certain detailed rules for the application of Council Regulation (EC) No. 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No. 1898/87 on the protection of designations used in the marketing of milk and milk products(**4**);

"Community provision" ("darpariaeth *Gymunedol*") means a provision referred to in regulation 6(2);

"food authority" ("*awdurdod bwyd*") has the meaning it bears by virtue of section 5(1A) of the Act;

"sell" ("*gwerthu*") includes possess for sale, and offer, expose or advertise for sale;

"sell by retail" ("*manwerthu*") means to sell to a person who is not buying for the purpose of re-sale;

"vitamin A" ("*fitamin A*") means vitamin A present as such or as its esters and includes beta-carotene on the basis that 6 micrograms of beta-carotene or 12 micrograms of other biologically active carotenoids equal one microgram of retinol equivalent;

"vitamin D" ("*fitamin D*") means the anti-rachitic vitamins.

(2) Other expressions used in these Regulations and in the Council Regulation or the Commission Regulation have the same meaning in these Regulations as they have in the Council Regulation or the Commission Regulation.

Exemptions from these Regulations

3.—(1) Except where paragraph (2) applies, unless and until there is a decision by the EEA Joint Committee to amend the EEA Agreement under Article 98 so as to refer to the Council Regulation and the Commission Regulation, these Regulations will not apply in respect of any spreadable fat to which the EEA Agreement applies and which —

(a) is brought into Wales —

(i) from an EEA State (other than a member State) in which it was lawfully produced and sold, or

(ii) from another part of the United Kingdom if that spreadable fat was brought there from such an EEA State; and

(b) is suitably labelled to indicate the nature of the spreadable fat.

(2) Regulation 4 does not apply in respect of any margarine which —

(a) is brought into Wales —

(i) from an EEA State (other than the United Kingdom) in which it was lawfully produced and sold,

(ii) from a member State (other than the United Kingdom) in which it was in free circulation and lawfully sold, or

(iii) from another part of the United Kingdom in which it was lawfully produced and sold or in free circulation and lawfully sold; and

(**3**) OJ No. L299, 16.11.2007, p.1. There are amendments to this Regulation but none are relevant to this instrument.
(**4**) OJ No. L106, 24.4.2007, p.24.