WELSH STATUTORY INSTRUMENTS

2007 No. 2611 (W.222)

FOOD, WALES

The Nutrition and Health Claims (Wales) Regulations 2007

Made - - - -	*6 September 2007*
Laid before the National Assembly for Wales - -	*7 September 2007*
Coming into force - -	*1 October 2007*

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

In accordance with section 48(4A) of that Act, 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(**2**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Title, application and commencement

1. These Regulations are called the Nutrition and Health Claims (Wales) Regulations 2007, apply in relation to Wales and come into force on 1st October 2007.

Interpretation

2.—(1) In these Regulations —

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

"food authority" ("*awdurdod bwyd*") has the same meaning as in section 5(1A) and (3)(a) and (b) of the Act;

"port health authority" ("*awdurdod iechyd porthladd*") means in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984, a port health authority for that district constituted by order under section 2(4) of that Act.

(**1**) 1990 c. 16. Section 1(1) and (2) (definition of "food") was substituted by S.I.2004/2990. Functions of the Secretary of State, 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. Those functions were transferred to Welsh Ministers by section 162 and Schedule 11, paragraph 30 of 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 Regulation" ("*y Rheoliad*") means Regulation (EC) No. 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods(**3**).

(2) Expressions used in these Regulations and in the Regulation have the same meaning in these Regulations as they do in that Regulation.

(3) Any reference to a numbered Article is a reference to the Article so numbered in the Regulation.

Competent Authorities

3. The competent authority for the purposes of the Regulation —

(a) in relation to Articles 1(4), 15(2), 16(2) and 18(2) is the Food Standards Agency, and

(b) in relation to Article 6(3) is —

(i) each port health authority in its district, and

(ii) outside such districts, each food authority in its area.

Enforcement

4. Each port health authority within its district and each food authority within its area must execute and enforce the provisions of these Regulations and of the Regulation.

Offences and Penalties

5.—(1) Subject to the derogation contained in Article 1(3) (relating to trade marks etc) and to the transitional measures contained in Article 28, any person who contravenes or fails to comply with the provisions of the Regulation specified in paragraph (2) is guilty of an offence and liable —

(a) on conviction on indictment to a term of imprisonment not exceeding two years or to a fine or both;

(b) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum or both.

(2) The specified provisions are —

(a) Article 3 (general requirements relating to all claims);

(b) Article 4(3) (restrictions on claims that may be made on alcoholic beverages);

(c) Article 6(2) (requirement for use of claims to be justified);

(d) Article 7 (requirements for nutrition information);

(e) Article 8(1) (requirements for nutrition claims);

(f) Article 9 (requirements for comparative claims);

(g) Article 10(1), (2) and (3) (requirements for health claims);

(h) Article 12 (prohibition of certain health claims); and

(i) Article 14(2) (requirements for reduction of disease risk claims).

Application of various provisions of the Act

6. The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part of it is to be construed as a reference to these Regulations —

(**3**) The revised text of this Regulation is now set out in a Corrigendum (OJ No. L12, 18.1.2007, p.3).

(a) section 2 (extended meaning of "sale" etc);

(b) section 3 (presumption that food is intended for human consumption);

(c) section 20 (offences due to the fault of another person);

(d) section 21 (defence of due diligence) as it applies for the purposes of section 14 or 15;

(e) section 22 (defence of publication in the course of business);

(f) section 30(8) (which relates to documentary evidence);

(g) section 34 (time limit for prosecution);

(h) section 36 (offences by bodies corporate);

(i) section 36A (offences by Scottish partnerships); and

(j) section 44 (protection of officers acting in good faith).

Obstruction of officers and provision of information etc

7.—(1) Any person who —

(a) intentionally obstructs any person acting in the execution of these Regulations; or

(b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him or her,

is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding level 5 on the standard scale or both.

(2) Any person who, in purported compliance with any requirement mentioned in paragraph (1)(b), knowingly or recklessly provides information that is false or misleading in any material particular, is guilty of an offence and liable -

(a) on conviction on indictment, to a term of imprisonment not exceeding two years or to a fine or both;

(b) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum or both.

(3) Nothing in paragraph (1)(b) may be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

Amendment of the Food Labelling Regulations

8.—(1) The Food Labelling Regulations 1996(**4**) are amended in relation to Wales in accordance with paragraph (2).

(2) After paragraph (4) of regulation 41, insert the following paragraph —

"(5) Nothing in regulation 40 or in Schedule 6 or 8 operates to prohibit or, as the case may be, restrict a claim made in accordance with the conditions of Regulation (EC) 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods(**5**)

(**4**) S.I. 1996/1499. There have been amendments to these Regulations, but none are relevant.
(**5**) The revised text of this Regulation is now set out in a corrigendum (OJ No. L12, 18.1.2007, p.3).