WELSH STATUTORY INSTRUMENTS

2007 No. 2288 (W.178)

AGRICULTURE, WALESFOOD, WALES

The Food (Suspension of the use of E 128 Red 2G as Food Colour) (Wales) Regulations 2007

Made - - - -	*1 August 2007*
Laid before the National Assembly for Wales - -	*2 August 2007*
Coming into force - -	*3 August 2007*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (**1**) as read with paragraph 1A of Schedule 2 to that Act.

The Welsh Ministers are designated for the purpose of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of food (**2**).

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 any reference to Commission Regulation (EC) No. 884/2007 on emergency measures suspending the use of E 128 Red 2G as food colour(**3**) to be construed as a reference to that Regulation as amended from time to time.

Title and commencement

1. The title of these Regulations is the Food (Suspension of the Use of E 128 Red 2G as Food Colour) (Wales) Regulations 2007 and come into force on 3 August 2007.

Interpretation

2.—(1) In these Regulations—

"authorised officer" ("*swyddog awdurdodedig*"), in relation to a food authority, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under these Regulations;

(**1**) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c. 51).
(**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.. L195, 27.7.2007, p.8.

"the Commission Regulation" ("*rheoliad y Comisiwn*") means Commission Regulation (EC) No. 884/2007 on emergency measures suspending the use of E 128 Red 2G as food colour;

"food authority" (**4**) has the meaning that it bears by virtue of section 5(1) of the Food Safety Act 1990(**5**) except that it does not include the appropriate Treasurer referred to in section 5(1)(c) of that Act (which deals with the Inner and Middle Temple).

(2) Where any functions under the Food Safety Act 1990 are assigned—

(a) by an order under section 2 or 7 of the Public Health (Control of Disease) Act 1984(**6**), to a port health authority;

(b) by an order under section 6 of the Public Health Act 1936(**7**), to a joint board for a united district; or

(c) by an order under paragraph 15(6) of Schedule 8 to the Local Government Act 1985(**8**), to a single authority for a metropolitan county,

any reference in these Regulations to a food authority shall be construed, so far as relating to those functions, as a reference to the authority to whom they are so assigned.

(3) In these Regulations any reference to the Commission Regulation is a reference to the Commission Regulation as amended from time to time.

Suspension of activities involving the colour E128 Red 2G

3.—(1) Notwithstanding the provisions of the Colours in Food Regulations 1995(**9**), any person who contravenes or fails to comply with the following provisions of the Commission Regulation is guilty of an offence—

(a) Article 1(1) (suspending the use of the colour E 128 Red 2G in food);

(b) Article 1(2) (suspending the placing on the market of food containing the colour E 128 Red 2G); or

(c) Article 1(3) (suspending the import of food containing the colour E 128 Red 2G).

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding three months or to both.

Enforcement

4. It is the duty of each food authority to execute and enforce these Regulations within its area.

Application of various provisions of the Food Safety Act 1990

5. The following provisions of the Food Safety Act 1990 apply for the purposes of these Regulations with the modification that any reference in those provisions to that Act or Part thereof are to be construed as a reference to these Regulations —

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

(b) section 21 (defence of due diligence)(**10**), with the modifications that subsections (2) to (4) apply in relation to an offence under regulation 3(1)(b) as they apply in relation to

(**4**) "*awdurdod bwyd*" in the Welsh Text
(**5**) 1990 c. 16.
(**6**) 1984 c. 22; section 7(3)(d) was substituted by paragraph 27 of Schedule 3 to the Food Safety Act 1990.
(**7**) 1936 c. 49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.
(**8**) 1985 c. 51; paragraph 15(6) was amended by paragraph 31(b) of Schedule 3 to the Food Safety Act 1990.
(**9**) S.I. 1995/3124, to which there are amendments not relevant to these Regulations
(**10**) Section 21 was amended by S.I. 2004/3279.