Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Quick-frozen Foodstuffs (Wales) Regulations 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2007 No. 389 (W.40)

FOOD, WALES

The Quick-frozen Foodstuffs (Wales) Regulations 2007

Made - - - - 13 February 2007

Coming into force - - 1 March 2007

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972 [F1].

The National Assembly for Wales has been designated [F2] for the purposes of that section in relation to measures relating to food (including drink) including the primary production of food.

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 [F3] there has been open and transparent public consultation during the preparation of the following Regulations.

F1 1972 c. 68.
F2 S.I. 2003/2901.
F3 OJ No. L31, 1.2.2002, p.1. as last amended as at the making of this instrument by commission Regulation (EC) No. 575/2006 amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the permanent Scientific Panels of the European Food Safety Authority (OJ No. L100, 8.4.2006, p.3).

Title, commencement and application

1.—(1) The title of these Regulations is "The Quick-frozen Foodstuffs (Wales) Regulations 2007".

(2) These Regulations come into force on 1 March 2007.

(3) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the Act" ("*y Ddeddf*") means the Food Safety Act 1990 [F4];

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

F5 …

[F6“Directive 89/108” (“*Cyfarwyddeb 89/108*”) means Council Directive 89/108/EEC on the approximation of the laws of Member States relating to quick-frozen foodstuffs for human consumption;**]**

“Directive 92/2” (“*Cyfarwyddeb 92/2*”) means Commission Directive 92/2/EEC laying down the sampling procedure and the Community method of analysis for the official control of the temperatures of quick-frozen foods intended for human consumption F7;

“enforcement authority” (“*awdurdod gorfodi*”) means the authority which, by virtue of regulation 9(5), is responsible for executing and enforcing these Regulations;

“food” (“*bwyd*”) has the meaning that it bears in Regulation 178/2002;

[F8“food authority” (“*awdurdod bwyd*”) has the meaning it bears by virtue of section 5(1A) of the Act;**]**

“local distribution”, (“dosbarthiad lleol”and “dosbarthu'n lleol”) in relation to any product, means that part of the distribution chain in which the product is delivered to the point of placing on the market for retail purposes (such placing on the market to include placing on the market to a **[**F9mass caterer**]**);

[F10“mass caterer” (“*arlwywr mawr*”) has the meaning given by Article 2(2)(d) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers;**]**

“placing on the market” (“*rhoi ar y farchnad*”) has the meaning that it bears in Regulation 178/2002 and “placed on the market” (“wedi'i rhoi ar y farchnad”) and “place on the market” shall be construed accordingly;

“prepackaging” (“*rhagbecyn*”) is construed in accordance with the definition of “prepacked” in **[**F11Article 2(2)(e) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers**]** but with the words “placed on the market” being substituted for the words “offered for sale”;

“quick-frozen foodstuff” (“*deunydd bwyd sydd wedi'i rewi'n gyflym*”) means a product—

(a) comprising food which has undergone a freezing process known as “quick-freezing” whereby the zone of maximum crystallisation is crossed as rapidly as possible, depending on the type of product; and

(b) which is labelled for the purpose of placing on the market to indicate that it has undergone that process,

but does not include ice-cream or any other edible ice;

“Regulation 178/2002” (“*Rheoliad 178/2002*”) means Regulation (EC) No. 178/2002 of the European Parliament and 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;

“Regulation 37/2005” (“*Rheoliad 37/2005*”) means Commission Regulation (EC) No. 37/2005 on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption F12;

“retail display cabinet” (“*cabinet arddangos manwerthol*”) means any cabinet in which a quick-frozen foodstuff is placed on the market for retail purposes or in the course of a cash-and-carry business;

“specified Community provision” (“*darpariaeth Gymunedol benodedig*”) means any provision of Regulation 37/2005 that is specified in column 1 of Schedule 1 and whose subject-matter is described in column 2 of that Schedule; and

[F13“ultimate consumer” (“*defnyddiwr olaf*”) has the same meaning as “final consumer” in point 18 of Article 3 of Regulation 178/2002.**]**

(2) Unless the context otherwise requires, any expression used both in these Regulations and in Directive 89/108, Directive 92/2 or Regulation 37/2005 has the meaning that it bears in Directive 89/108, Directive 92/2 or Regulation 37/2005, as the case may be.

(3) Where any functions under the Act are assigned—

(a) by an order under section 2 F14... of the Public Health (Control of Disease) Act 1984 F15, to a port health authority; **[**F16or**]**

(b) by an order under section 6 of the Public Health Act 1936 F17, to a joint board for a united district; F18...

F19(c) . . . . . .

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

F4 1990 c. 16.
F5 Words in reg. 2(1) omitted (13.12.2014) by virtue of The Food Information (Wales) Regulations 2014 (S.I. 2014/2303), reg. 1(3), **Sch. 7 para. 43(a)**
F6 Words in reg. 2(1) substituted (26.7.2018) by The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 (S.I. 2018/806), regs. 1(3), **15(2)(a)(i)**
F7 OJ No. L034, 11.2.92, p.30.
F8 Words in reg. 2(1) substituted (26.7.2018) by The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 (S.I. 2018/806), regs. 1(3), **15(2)(a)(ii)**
F9 Words in reg. 2(1) substituted (13.12.2014) by The Food Information (Wales) Regulations 2014 (S.I. 2014/2303), reg. 1(3), **Sch. 7 para. 43(b)**
F10 Words in reg. 2(1) inserted (13.12.2014) by The Food Information (Wales) Regulations 2014 (S.I. 2014/2303), reg. 1(3), **Sch. 7 para. 43(c)**
F11 Words in reg. 2(1) substituted (13.12.2014) by The Food Information (Wales) Regulations 2014 (S.I. 2014/2303), reg. 1(3), **Sch. 7 para. 43(d)**
F12 OJ No. L10, 13.1.05, p.18.
F13 Words in reg. 2(1) substituted (13.12.2014) by The Food Information (Wales) Regulations 2014 (S.I. 2014/2303), reg. 1(3), **Sch. 7 para. 43(e)**
F14 Words in reg. 2(3)(a) omitted (26.7.2018) by virtue of The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 (S.I. 2018/806), regs. 1(3), **15(2)(b)(i)**
F15 1984 c. 22; section 7(3)(d) was substituted by paragraph 27 of Schedule 3 to the Food Safety Act 1990 (1990 c. 16).
F16 Word in reg. 2(3)(a) inserted (26.7.2018) by The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 (S.I. 2018/806), regs. 1(3), **15(2)(b)(ii)**
F17 1936 c. 49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.
F18 Word in reg. 2(3)(b) omitted (26.7.2018) by virtue of The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 (S.I. 2018/806), regs. 1(3), **15(2)(b)(iii)**
F19 Reg. 2(3)(c) omitted (26.7.2018) by virtue of The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 (S.I. 2018/806), regs. 1(3), **15(2)(b)(iv)**

Placing on the market of quick-frozen foodstuffs

3. No person may place a quick-frozen foodstuff on the market for human consumption unless the conditions set out in paragraph 1 of Schedule 2 are satisfied in relation to it.

Packaging of quick-frozen foodstuffs intended for the ultimate consumer

4. No person may place any quick-frozen foodstuff intended for the ultimate consumer on the market unless—

(a) it has been packed by its manufacturer or packer in such prepackaging as is suitable to protect it from microbial and other forms of external contamination and against dehydration; and

(b) the quick-frozen foodstuff has remained in such prepackaging up to the time of placing on the market.

Marketing or labelling of quick-frozen foodstuffs

5.—(1) No person may place on the market any food intended for the ultimate consumer or any **[**[F20]mass caterer**]** where its labelling or marking contravenes paragraph (2) or (3) and no person may place on the market any food intended for any other person where its labelling or marking contravenes paragraph (2) or (4).

(2) The description "*quick-frozen*" or any other description listed in Article 8.1(a) of Directive 89/108 may only be used in the labelling for the purpose of placing on the market of—

(a) a quick-frozen foodstuff; or

(b) a food which by virtue of that labelling becomes a quick-frozen foodstuff.

(3) A quick-frozen foodstuff intended for supply, without further processing, to the ultimate consumer or to a **[**[F21]mass caterer**]** must, in addition to the description "quick-frozen" (and, as the intending supplier may see fit, any other description listed in Article 8.1(a) of Directive 89/108) added to its sales name, be marked or labelled on its packaging, container or wrapping, or on a label attached thereto, with—

(a) an indication of the date of minimum durability;

(b) an indication of the maximum period during which it is advisable to store it;

(c) an indication of—

(i) the temperature at which, and/or

(ii) the equipment in which,

it is advisable to store it;

(d) a reference allowing identification of the batch to which it belongs; and

(e) a clear message of the type "do not refreeze after defrosting".

(4) Any other quick-frozen foodstuff must, in addition to the description "quick-frozen" (and, as the supplier may see fit, any other description listed in Article 8.1(a) of Directive 89/108) added to its sales name, be marked or labelled on its packaging, container or wrapping, or on a label attached thereto, with—

(a) a reference allowing identification of the batch to which it belongs; and

(b) the name or business name and address of the manufacturer or packer, or of a person who places that foodstuff on the market established within the Community.

F20 Words in reg. 5(1) substituted (13.12.2014) by The Food Information (Wales) Regulations 2014 (S.I. 2014/2303), reg. 1(3), **Sch. 7 para. 44**

F21 Words in reg. 5(3) substituted (13.12.2014) by The Food Information (Wales) Regulations 2014 (S.I. 2014/2303), reg. 1(3), **Sch. 7 para. 44**

Equipment

6. Each food operator handling a quick-frozen foodstuff intended for placing on the market for human consumption must ensure during each stage which it is within the food operator's control that the equipment used in respect of that foodstuff is such as to ensure that its eventual placing on the market does not contravene these Regulations, whether through an act or an omission on the part of the food operator.

Sampling and method of measuring temperatures

7. Where, further to an inspection, an authorised officer of an enforcement authority has reasonable grounds to believe that the temperatures that are being or have been maintained in respect of any quick-frozen foodstuff are not the temperatures prescribed for such foodstuff in paragraph 1(e) and (f) of Schedule 2, he must further inspect such quick-frozen foodstuff and such temperatures in accordance with the provisions of Directive 92/2.

Records

8. Each food operator handling a quick-frozen foodstuff must at the request of an authorised officer of an enforcement authority make available, to that or another authorised officer of that authority, the records required to be kept under Article 2 of Regulation 37/2005.

Offences, penalties and enforcement

9.—(1) If any person contravenes or fails to comply with any of the provisions of these Regulations that person is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Subject to paragraphs (3) and (4), if any person contravenes or fails to comply with a specified Community provision that person is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

F22(3) . . . . . .

(4) A person will not be considered to have contravened or failed to comply with Article 2 of Regulation 37/2005 if—

(a) the offence which would otherwise have been committed was in respect of a cold store facility with a capacity of less than $10m^3x2$ used for storing stock in retail outlets; and

(b) the air temperature in the cold store is measured by an easily visible thermometer.

(5) Each food authority must enforce and execute these Regulations within its area.

F22 Reg. 9(3) omitted (26.7.2018) by virtue of The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 (S.I. 2018/806), regs. 1(3), **15(3)**

Application of various provisions of the Food Safety Act 1990

10. 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 a Part of it is to be construed as a reference to these Regulations—

(a) section 3 (presumptions that food intended for human consumption);

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

(c) section 21 (defence of due diligence) F23, with the modifications that subsections (2) to (4) shall apply in relation to an offence under regulation 9(1) consisting of a contravention or