***Changes to legislation:*** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Food Hygiene (Wales) Regulations 2006. 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

# 2006 No. 31 (W.5)

# FOOD, WALES

## The Food Hygiene (Wales) Regulations 2006

| | |
|---|---|
| *Made - - - -* | *10 January 2006* |
| *Coming into force - -* | *11 January 2006* |

The National Assembly for Wales, being designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to measures relating to food (including drink), including the primary production of food, in exercise of the powers conferred by that section, and in exercise of the powers conferred by sections 16(1)(e) of the Food Safety Act 1990 [F3] and now vested in it [F4], having had regard in accordance with section 48(4A) of the Food Safety Act to relevant advice given by the Food Standards Agency and after open and transparent public consultation both 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 [F5], makes the following Regulations:

**F1** S.I. 2005/1971.
**F2** 1972 c. 68.
**F3** 1990 c. 16.
**F4** Functions of the Secretary of State under the Food Safety Act 1990, 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 Food Standards Act.
**F5** OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4).

## PART 1

### PRELIMINARY

**Title, commencement and application**

**1.** The title of these Regulations is the Food Hygiene (Wales) Regulations 2006, they come into force on 11 January 2006, and apply in relation to Wales.

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Food Hygiene (Wales) Regulations 2006. 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*

## Interpretation

**2.**—(1) In these Regulations—

"the Act" ("*y Ddeddf*") means the Food Safety Act 1990 [F6];

"the Agency" ("*yr Asiantaeth*") means the Food Standards Agency;

"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 the Hygiene Regulations;

**[**[F7]"the Community Regulations" ("*Rheoliadau'r Gymuned*") means Regulation 852/2004, Regulation 853/2004, Regulation 2073/2005, Regulation 2015/1375, Regulation 2017/185, Regulation 2017/625 and the Regulation 2017/625 package insofar as it and they apply to food;**]**

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

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

"the Hygiene Regulations" ("*y Rheoliadau Hylendid*") means these Regulations and the Community Regulations;

"premises" ("*mangre*") includes any establishment, any place, vehicle, stall or moveable structure and any ship or aircraft;

**[**[F8]"Directive 2004/41" ("*Cyfarwyddeb 2004/41*"), "Regulation 178/2002" ("*Rheoliad 178/2002*"), "Regulation 852/2004" ("*Rheoliad 852/2004*"), "Regulation 853/2004" ("*Rheoliad 853/2004*"), "Regulation 1688/2005" ("*Rheoliad 1668/2005*"), "Regulation 2073/2005" ("*Rheoliad 2073/2005*"), "Regulation 2074/2005" ("*Rheoliad 2074/2005*"), "Regulation 931/2011" ("*Rheoliad 931/2011*"), "Regulation 1169/2011" ("*Rheoliad 1169/2011*"), "Regulation 28/2012" ("*Rheoliad 28/2012*"), "Regulation 208/2013" ("*Rheoliad 208/2013*"), "Regulation 210/2013" ("*Rheoliad 210/2013*"), "Regulation 579/2014" ("*Rheoliad 579/2014*"), "Regulation 2015/1375" ("*Rheoliad 2015/1375*"), "Regulation 2017/185" ("*Rheoliad 2017/185*"), "Regulation 2017/625" ("*Rheoliad 2017/625*"), "Regulation 2018/329" ("*Rheoliad 2018/329*"), "Regulation 2018/631" ("*Rheoliad 2018/631*"), "Regulation 2019/66" ("*Rheoliad 2019/66*"), "Regulation 2019/478" ("*Rheoliad 2019/478*"), "Regulation 2019/530" ("*Rheoliad 2019/530*"), "Regulation 2019/624" ("*Rheoliad 2019/624*"), "Regulation 2019/625" ("*Rheoliad 2019/625*"), "Regulation 2019/626" ("*Rheoliad 2019/626*"), "Regulation 2019/627" ("*Rheoliad 2019/627*"), "Regulation 2019/628" ("*Rheoliad 2019/628*"), "Regulation 2019/723" ("*Rheoliad 2019/723*"), "Regulation 2019/1012" ("*Rheoliad 2019/1012*"), "Regulation 2019/1013" ("*Rheoliad 2019/1013*"), "Regulation 2019/1014" ("*Rheoliad 2019/1014*"), "Regulation 2019/1081" ("*Rheoliad 2019/1081*"), "Regulation 2019/1602" ("*Rheoliad 2019/1602*"), "Regulation 2019/1666" ("*Rheoliad 2019/1666*") "Regulation 2019/1715" ("*Rheoliad 2019/1715*"), "Regulation 2019/1793" ("*Rheoliad 2019/1793*") and "Regulation 2019/1873" ("*Rheoliad 2019/1873*"), have the meanings respectively given to them in Schedule 1;**]**

**[**[F9]"the Regulation 2017/625 package" ("*pecyn Rheoliad 2017/625*") means "Regulation 2018/329", "Regulation 2018/631", "Regulation 2019/66", "Regulation 2019/478", "Regulation 2019/530", "Regulation 2019/624", "Regulation 2019/625", "Regulation 2019/626", "Regulation 2019/627", "Regulation 2019/628", "Regulation 2019/723", "Regulation 2019/1012", "Regulation 2019/1013", "Regulation 2019/1014", "Regulation 2019/1081", "Regulation 2019/1602", "Regulation 2019/1666", "Regulation 2019/1715", "Regulation 2019/1793" and "Regulation 2019/1873";**]**

"specified Community provision" ("darpariaeth Gymunedol benodedig") means any provision of the Community Regulations that is specified in column 1 of Schedule 2 and whose subject-matter is described in column 2 of that Schedule.

(2) Subject to paragraph (3), any expression other than one defined in paragraph (1) that is used both in these Regulations and in the Act has the meaning it bears in the Act.

(3) Unless the context otherwise requires, any expression used both in these Regulations and in Regulation 178/2002 or the Community Regulations has the meaning it bears in Regulation 178/2002 or the Community Regulations, as the case may be.

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

(a) by an order under section 2 of the Public Health (Control of Disease) Act 1984 [F10], to a port health authority; or

(b) by an order under section 6 of the Public Health Act 1936 [F11], to a joint board for a united district,

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.

(5) Where, apart from this paragraph, any period of less than seven days which is specified in these Regulations would include any day which is—

(a) a Saturday, a Sunday, Christmas Day or Good Friday; or

(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 [F12],

that day will be excluded from the period.

**[**[F13](6) In these Regulations, any reference to an EU instrument defined in Schedule 1 is a reference to that instrument as [F14]... amended from time to time.**]**

**F6** 1990 c. 16.
**F7** Words in reg. 2(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **4(a)(i)**
**F8** Words in reg. 2(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **4(a)(ii)**
**F9** Words in reg. 2(1) inserted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **4(a)(iii)**
**F10** 1984 c. 22; section 7(3)(d) was substituted by paragraph 27 of Schedule 3 to the Food Safety Act 1990 (1990 c. 16).
**F11** 1936 c. 49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.
**F12** 1971 c. 80.
**F13** Reg. 2(6) inserted (30.7.2012) by The Food Hygiene (Wales) (Amendment) (No. 2) Regulations 2012 (S.I. 2012/1765), regs. 1, **2(3)**
**F14** Words in reg. 2(6) omitted (14.12.2019) by virtue of The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **4(b)**

### Presumptions that food is intended for human consumption

**3.**—(1) The following paragraphs apply for the purposes of these Regulations.

(2) Any food commonly used for human consumption will, if placed on the market or offered, exposed or kept for placing on the market, be presumed, until the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placing on the market for human consumption.

(3) The following, namely—

(a) any food commonly used for human consumption which is found on premises used for the preparation, storage, or placing on the market of that food; and

(b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or placing on the market of that food,

will be presumed, until the contrary is proved, to be intended for placing on the market, or for manufacturing food for placing on the market, for human consumption.

(4) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared will, until the contrary is proved, be presumed to be intended for such use.

**Competent authority**

**4.** The competent authority for the purposes of the Community Regulations is the Agency except where it has delegated competencies as provided for in those Regulations.

**Enforcement**

**5.**—(1) In respect of any food business operator to whose operations Regulation 852/2004 applies but Regulation 853/2004 does not apply—

(a) the Agency or the food authority in whose area the food business operator carries out his or her operations must enforce and execute the Hygiene Regulations in so far as the operator concerned is carrying out primary production and those associated operations listed in paragraph 1 of Part AI of Annex I to Regulation 852/2004 other than the associated operations described in sub-paragraphs (a) and (c) of that paragraph to the extent that they concern wild game; and

(b) the food authority in whose area the food business operator carries out his or her operations must enforce and execute the Hygiene Regulations in so far as the operator concerned is carrying out operations which are not executed and enforced by the Agency or the food authority as provided for in sub-paragraph (a).

(2) In respect of any food business operator to whose operations both Regulation 852/2004 and Regulation 853/2004 apply—

(a) the Agency must enforce and execute the Hygiene Regulations in so far as the operator concerned is carrying out operations in relation to—

(i) a slaughterhouse,

(ii) a game handling establishment, or

(iii) a cutting plant; and

(b) the Agency or the food authority in whose area the food business operator carries out his or her operations must enforce and execute the Hygiene Regulations in so far as the operator concerned is carrying out operations in relation to any establishment that is not specified in sub-paragraph (a).

(3) In respect of —

(a) collection centres and tanneries supplying raw material for the production of gelatine intended for human consumption pursuant to paragraph 5 of Chapter I of Section XIV of Annex III to Regulation 853/2004; and

(b) collection centres and tanneries supplying raw material for the production of collagen intended for human consumption pursuant to paragraph 5 of Chapter I of Section XV of Annex III to Regulation 853/2004,

the food authority in whose area the collection centre or tannery concerned is situated must enforce and execute the Hygiene Regulations.

(4) Each food authority must enforce and execute these Regulations in its area in relation to the matters regulated by—

(a) Schedules 3 to 5; and

(b) Schedule 6 in so far as it applies in relation to raw milk intended for direct human consumption other than raw cows' milk.

(5) The Agency must enforce and execute these Regulations in relation to the matters regulated by Schedule 6 in so far as it applies in relation to raw cows' milk intended for direct human consumption.

**[**F15(6) In this regulation—

"cutting plant" ("*safle torri*") means an establishment which is used for boning and/or cutting up fresh meat for placing on the market and which is approved or conditionally approved under Article 148 of Regulation 2017/625;

"game-handling establishment" ("*sefydliad trin anifeiliaid hela*") means an establishment in which game and game meat obtained after hunting are prepared for placing on the market and which is approved or conditionally approved under Article 148 of Regulation 2017/625;

"slaughterhouse" ("*lladd-dy*") means an establishment used for slaughtering and dressing animals, the meat of which is intended for human consumption, and which is approved or conditionally approved under Article 148 of Regulation 2017/625.**]**

**F15** Reg. 5(6) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **5**

# PART 2

## MAIN PROVISIONS

### Hygiene improvement notices

**6.**—(1) If an authorised officer of an enforcement authority has reasonable grounds for believing that a food business operator is failing to comply with the Hygiene Regulations, the officer may by a notice served on that person (in these Regulations referred to as a "hygiene improvement notice")—

(a) state the officer's grounds for believing that the food business operator is failing to comply with the Hygiene Regulations;

(b) specify the matters which constitute the food business operator's failure to comply;

(c) specify the measures which, in the officer's opinion, the food business operator must take in order to secure compliance; and

(d) require the food business operator to take those measures, or measures which are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.

(2) Any person who fails to comply with a hygiene improvement notice will be guilty of an offence.

### Hygiene prohibition orders

**7.**—(1) If—