WELSH STATUTORY INSTRUMENTS

2004 No. 1396 (W.141)

FOOD, WALES
COMPOSITION AND LABELLING

The Meat Products (Wales) Regulations 2004

Made - - - -	*19 May 2004*
Coming into force - -	*31 May 2004*

The National Assembly for Wales, in exercise of the powers conferred by section 16(1)(a) and (e), 26(1) and (3) and 48(1) of the Food Safety Act 1990(**1**) and now vested in it(**2**), and having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency, and after consultation both as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**3**) and in accordance with section 48(4) and (4B) of the said Act, hereby makes the following Regulations:

Title, application and commencement

1. These Regulations —

(a) may be cited as the Meat Products (Wales) Regulations 2004;

(b) apply to Wales only; and

(c) shall come into force on 31 May 2004.

Interpretation

2. In these Regulations —

"catering establishment" ("*sefydliad arlwyo*") has the meaning assigned to it by the Food Labelling Regulations 1996(**4**);

(**1**) 1990 c. 16.

(**2**) Functions of "the Ministers" under the Food Safety Act 1990("the 1990 Act"), 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 1999 ("the 1999 Act ") (c.28). Sections 16(1) and 48(1) of the 1990 Act were amended by the 1999 Act, Schedule 5, paragraph 8 and section 26(3) was amended by the 1999 Act , Schedule 6.

(**3**) OJ No. L31, 1.2.2002, p.1. 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.

(**4**) S.I. 1996/1499; relevant amending instruments are S.I. 1998/1398, 1999/747, 1136, 1483.

"cooked" ("*wedi'i goginio*"), in relation to a food, means subjected to a process of cooking throughout the whole food so that the food is sold for consumption without further cooking, and "uncooked"("*heb ei goginio*") shall be construed accordingly;

"cured meat"("*cig wedi'i halltu*") means a food consisting of meat and curing salt, whether or not the food also contains any other ingredient;

"curing salt" ("*halen halltu*") means sodium chloride, potassium chloride, sodium nitrate, potassium nitrate, sodium nitrite or potassium nitrite, whether alone or in any combination, except that sodium chloride or potassium chloride alone or a mixture of sodium chloride and potassium chloride alone is to be regarded as a curing salt when used in a meat product only if used in sufficient quantity to have a significant preserving effect on the meat product;

"ingredient" ("*cynhwysyn*") has the meaning assigned to it by the Food Labelling Regulations 1996;

"meat" ("*cig*") has the meaning assigned to it by Directive 2000/13/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs(**5**), as amended by Commission Directive 2001/101/EC(**6**);

"meat product" ("*cynnyrch cig*") means any food, other than one specified in Schedule 1, which consists of meat or which contains as an ingredient, or as ingredients, any of the following: meat; mechanically recovered meat; or, from any mammalian or bird species recognised as fit for human consumption, heart, tongue, the muscles of the head (other than the masseters), the carpus, the tarsus, or the tail;

"mechanically recovered meat"("*cig wedi'i adfer yn fecanyddol*") has the same meaning as in Commission Directive 2001/101/EC;

"port health authority"("*awdurdod iechyd porthladd*") means in relation to any port health district in Wales constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984(**7**), a port health authority for that district constituted by order under section 2(4) of that Act;

"sell" ("*gwerthu*") includes offer or expose for sale or have in possession for sale, and "sale" ("*gwerthiant*") shall be construed accordingly; and

"ultimate consumer" ("*defnyddiwr olaf*") has the meaning assigned to it by the Food Labelling Regulations 1996.

Scope

3.—(1) Subject to paragraphs (2) and (3), these Regulations apply to food which is ready for delivery to the ultimate consumer or to a catering establishment.

(2) These Regulations shall not apply in respect of any food which is —

(a) not intended for sale for human consumption; or

(b) marked or labelled with a clear indication that the food is intended exclusively for consumption by babies or young children.

(3) Regulation 4 (restrictions on the use of certain names) shall not apply in respect of any food which is —

(a) brought into Wales from —

(i) an EEA State (other than the United Kingdom), or

(**5**) OJ No. L109, 6.5.2000, p.29.
(**6**) OJ No. L310, 28.11.2001, p.19.
(**7**) 1984 c. 22.

(ii) another part of the United Kingdom,

in which it was lawfully sold, having been lawfully produced in an EEA State; or

(b) brought into Wales from —

(i) a Member State (other than the United Kingdom), or

(ii) another part of the United Kingdom,

in which it was lawfully sold, having been lawfully produced in a Member State, or in which it was in free circulation and lawfully sold.

(4) For the purposes of paragraph (3) —

"EEA State" ("*Gwladwriaeth EEA*") means a State which is a Contracting Party to the Agreement on the European Economic Area(**8**) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(**9**) signed at Brussels on 17th March 1993;

"free circulation" ("*cylchrediad rhydd*") has the same meaning as in Article 24 of the Treaty establishing the European Community;

"Member State" ("*Aelod-wladwriaeth*") means a State which is a member of the European Community.

Restrictions on the use of certain names

4.—(1) For the purposes of the Food Labelling Regulations 1996, a name which appears in column 1 of Schedule 2 shall not be used in the labelling or advertising of a meat product as the name of the food, whether or not qualified by other words, unless either —

(a) the product complies with the appropriate requirements in columns 2 and 3 of that Schedule; or

(b) the name is used in accordance with paragraph (2).

(2) A name which appears in column 1 of Schedule 2 shall not be used in the labelling or advertising of a food, whether or not qualified by other words, in such a way as to suggest, either expressly or by implication, that the product designated by that name is an ingredient of the food unless —

(a) (i) that product is an ingredient of the food, and

(ii) that product complied, at the time of preparation of the food, with the appropriate requirements in columns 2 and 3 of that Schedule; or

(b) (i) the name used as the name of the food for that food is a name which appears in column 1 of that Schedule, and

(ii) the food complies with the appropriate requirements in columns 2 and 3 of that Schedule.

(3) No person shall sell a food in the labelling of which a name is used in contravention of paragraphs (1) or (2).

(4) No person shall use a name in contravention of paragraphs (1) or (2) in advertising a food for sale.

(**8**) OJ No. L1, 3.1.94, p.1.
(**9**) OJ No. L1, 3.1.94, p.571.

Name of the food for certain meat products

5.—(1) Subject to paragraphs (3) and (4), where any person sells any meat product which has the appearance of a cut, joint, slice, portion or carcase of meat or of cured meat (in each case, whether cooked or uncooked), this regulation shall apply.

(2) For the purposes of the Food Labelling Regulations 1996, the name used as the name of the food in the labelling of any meat product to which this regulation applies shall include an indication of —

(a) any added ingredient of animal origin, unless the meat product contains meat of the species from which that added ingredient is derived; and

(b) any added ingredient to which sub-paragraph (a) does not apply other than an ingredient specified in Schedule 3.

(3) For the purposes of paragraph (1), no account shall be taken of the presence in or on the meat product of any seasoning, garnishing or gelatinous substance, nor of any packaging material enclosing the meat product.

(4) This regulation shall not apply where the name used as the name of the food is a name which appears in column 1 of Schedule 2 whether or not qualified by other words or to a food having the appearance of minced uncooked meat which has been shaped.

Parts of the carcase in uncooked meat products

6.—(1) Subject to paragraph (3), no person shall sell an uncooked meat product in the preparation of which any part specified in paragraph (2) of the carcase from any mammalian species has been used as an ingredient.

(2) The specified parts of the carcase are: brains, feet, large intestine, small intestine, lungs, oesophagus, rectum, spinal cord, spleen, stomach, testicles and udder.

(3) The prohibition contained in paragraph (1) shall not extend to use of a mammalian large or small intestine solely as a sausage skin.

(4) In this regulation the word "sausage" includes chipolata, frankfurter, link, salami and any similar product.

Penalties and enforcement

7.—(1) If any person contravenes or fails to comply with regulation 4, 5(2) or 6(1) of these Regulations, that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Subject to paragraph (3) each food authority shall enforce and execute these Regulations in its area.

(3) Each port health authority shall enforce and execute these Regulations in its district in relation to food imported into Wales from outside the United Kingdom.

Application of various provisions of the Food Safety Act 1990

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

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

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

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

(d) section 21 (defence of due diligence as it applies for the purposes of sections 8, 14 or 15 of that Act);

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

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

(g) section 33(1) (obstruction etc. of officers);

(h) section 33(2), with the modification that the reference to "any such requirement as is mentioned in subsection 1(b) above" shall be deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (g);

(i) section 35(1) (punishment of offences) insofar as it relates to offences under section 33(1) as applied by sub-paragraph (g);

(j) section 35(2) and (3) insofar as it relates to offences under section 33(2) as applied by sub-paragraph (h);

(k) section 36 (offences by bodies corporate); and

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

Amendment of the Food Labelling Regulations 1996

9. The Food Labelling Regulations 1996 shall (insofar as they apply to Wales) be amended as follows —

(a) in regulation 2(1) (interpretation), after the definition of "liqueur wine" there shall be inserted the following definition —

> ""meat product" has the meaning assigned to it by the Meat Products (Wales) Regulations 2004;";

(b) in regulation 23 (food which is not prepacked and similar food, and fancy confectionery products), in paragraph (2) —

(i) the word "and" at the end of sub-paragraph (a) shall be deleted, and

(ii) after sub-paragraph (b) there shall be inserted the following —

> "and
>
> (c) in the case of a meat product other than one listed in Schedule 4A the particulars required by regulation 5(bA) in respect of those of its ingredients being meat, within the meaning assigned to it by Directive 2000/13/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, as amended by Commission Directive 2001/101/EC,";

(c) after Schedule 4 there shall be inserted the Schedule contained in Schedule 4 to these Regulations.

Transitional provision and defence in relation to exports

10. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that —

(a) (i) the act was committed before 1st August 2004 and