OFFERYNNAU STATUDOL CYMRU

2003 Rhif 1677 (Cy.180)

AMAETHYDDIAETH, CYMRU

Rheoliadau Porthiant (Samplu a Dadansoddi), Porthiant (Gorfodi) a Phorthiant (Sefydliadau a Chyfryngwyr) (Diwygio) (Cymru) 2003

Wedi'u gwneud	- -	*2 Gorffennaf 2003*
Yn dod i rym	- -	*14 Gorffennaf 2003*

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 66(1), 75(1) 76(1), 77(4), 78(6), 79(1) a (2) ac 84 o Ddeddf Amaethyddiaeth 1970(**1**), ar ôl ymgynghori fel sy'n ofynnol o dan adran 84(1) o'r Ddeddf honno ac o dan Erthygl 9 o Reoliad (EC) Rhif 178/2002 o Senedd Ewrop a'r Cyngor sy'n gosod egwyddorion a gofynion cyffredinol cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop a gosod gweithdrefnau ynglyn â diogelwch bwyd(**2**), a chan ei fod wedi ei ddynodi(**3**) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â pholisi amaethyddol cyffredin y Gymuned Ewropeaidd, drwy arfer y pwerau a roddwyd iddo gan yr adran honno a grybwyllwyd ddiwethaf (i'r graddau na ellir gwneud y Rheoliadau hyn o dan y pwerau yn Neddf Amaethyddiaeth 1970 a nodir uchod), yn gwneud y Rheoliadau canlynol:

Teitl, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Porthiant (Samplu a Dadansoddi), Porthiant (Gorfodi) a Phorthiant (Sefydliadau a Chyfryngwyr) (Diwygio) (Cymru) 2003a deuant i rym ar 14 Gorffennaf 2003.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

Diwygio Rheoliadau Porthiant (Samplu a Dadansoddi) 1999

2. Diwygir Rheoliadau Porthiant (Samplu a Dadansoddi) 1999(**4**) o ran Cymru yn unol â rheoliadau 3 i 7.

(**1**) 1970 p. 40. Yn adran 66(1) ceir diffiniadau'r ymadroddion "the Ministers", "prescribed" a "regulations". Diwygiwyd diffiniad "the Ministers" gan Orchymyn Trosglwyddo Swyddogaethau (Cymru) (Rhif 1) 1978 (O.S. 1978/272), Atodlen 5, paragraff 1. Trosglwyddwyd swyddogaethau'r Gweinidogion "the Ministers", i'r graddau y maent yn arferadwy mewn cysylltiad â Chymru, i Gynulliad Cenedlaethol Cymru gan O.S. 1999/672.

(**2**) OJ Rhif L31, 1.2.2002, t.1. O dan Erthygl 3 o Reoliad (EC) 178/2002 mae cyfraith bwyd, "food law", yn ymestyn i borthiant a gynhyrchir ar gyfer, neu a roddir i, anifeiliaid sy'n cynhyrchu bwyd.

(**3**) O.S. 1999/2788.

(**4**) O.S. 1999/1663, fel y'i diwygiwyd gan O.S. 1999/1871, O.S. 2001/343 (Cy. 15), O.S. 2001/2253 (Cy. 163) ac O.S. 2002/1797 (Cy. 172).

3. Yn rheoliad 1 (teitl, cychwyn a chymhwyso) yn lle paragraff (2) rhoddir y paragraff canlynol—

"(2) In these Regulations —

"the Act" means the Agriculture Act 1970;

"the sampling Directive" means First Commission Directive 76/371/EEC establishing the methods of sampling for the official control of feedingstuffs(**5**); and

"Directive 2002/70/EC" means Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs(**6**).".

4. Yn lle rheoliad 3 (modd o gymryd, paratoi, marcio, selio a chau samplau) rhoddir y rheoliad canlynol—

"**Manner of taking, preparing, marking, sealing and fastening samples**

3. The manner in which samples of —

(a) feedingstuffs; and

(b) feed materials to be sampled pursuant to Directive 2002/70/EC,

are to be taken, prepared, marked, sealed and fastened shall be as prescribed in Schedule 1."

5. Yn rheoliad 6 (cymhwyso dulliau dadansoddi)—

(a) yn lle paragraff (1) rhoddir y paragraff canlynol—

"(1) Subject to paragraphs (1A) and (2) below, to determine whether a substance of a kind listed in column 1 of Annex I to Part II of Schedule 2, or to which the method of analysis specified in Annex II or as the case may be Annex III to that Part relates, is present or active in a sample of —

(a) a feeding stuff to be analysed pursuant to the Act;

(b) (in the case of the substances vitamin A and vitamin E) a premixture to be analysed pursuant to Commission Directive 2000/45/EC establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryphophan in feeding stuffs(**7**); or

(c) (in the case of dioxins and dioxin-like PCBs) a feed material to be analysed pursuant to Directive 2002/70/EC,

and if it is what quantity or proportion of such substance is present or active in such a sample —

(d) the provisions specified in Part I of Schedule 2 under the heading "GENERAL PROVISIONS" shall apply;

(e) in relation to a substance of a class or description listed (whether by itself or by reference to its activity) in column 1 of Annex I to Part II of that Schedule, the relevant method of analysis set out in the Community provision listed in the corresponding entry in column 2 of that Annex shall be used; and

(f) in relation to a substance to which the method of analysis specified in Annex II or as the case may be III to Part II of that Schedule relates, that method shall be used.";

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(**5**) OJ No. L162, 15.4.76, t.1.
(**6**) OJ No. L209, 6.8.2002, t.15.
(**7**) OJ Rhif L174, 13.7.2000, t.32.

(b) yn union ar ôl paragraff (1) mewnosodir y paragraff canlynol—

"(1A) Where more than one method of analysis is provided for in any of the Community provisions listed in columns 2 and 3 of Annex I to Part II of Schedule 2 in relation to the same substance, the notes to that Annex shall have effect to specify which is the relevant method.".

6. Yn union ar ôl rheoliad 6 mewnosodir y rheoliad canlynol —

"**Modification of the Agriculture Act 1970 and of these Regulations as regards analysis of samples of feeding stuffs and feed materials to determine levels of dioxins and dioxin-like PCBs**

6A. For the purpose of determining whether dioxins or dioxin-like PCBs are present or active in a sample of a feeding stuff to be analysed pursuant to the Act or of a feed material to be analysed pursuant to Directive 2002/70/EC and if they are what quantity or proportion of dioxins or dioxin-like PCBs are present or active in such a sample —

(a) Part IV of the Act shall have effect as if —

(i) in section 66(1), immediately after the definition of "pet animal" there were inserted the following definition —

"point 4 compliant laboratory" means a laboratory which complies with point 4 of Annex II to Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs;",

(ii) in section 77(1)(a), for the words "the agricultural analyst for the inspector's area" there were substituted the words "a point 4 compliant laboratory",

(iii) in each of sections 77(3) and 78(5), for the words "the agricultural analyst" there were substituted the words "a point 4 compliant laboratory",

(iv) in section 77(4), for the words "The agricultural analyst shall analyse the part of a sample which is sent to him" there were substituted the words "A point 4 complaint laboratory shall analyse the part of a sample which is sent to it",

(v) section 77(5) were omitted,

(vi) in section 78(3), for the words "agricultural analyst's", in both places where they appear, there were substituted the words "point 4 compliant laboratory's",

(vii) for section 79(4) and (5) there were substituted the following subsections —

"(4) Any analysis required to be made by a point 4 compliant laboratory or the Government Chemist may be made by any person acting under the directions of an analyst at that laboratory or, as the case may be, of the Government Chemist.

(5) A certificate of analysis by an analyst at a point 4 compliant laboratory shall be signed by that analyst and a certificate of analysis by the Government Chemist shall be signed by him or a person authorised by him to sign the certificate.", and

(viii) in section 79(6), for the words "an agricultural analyst" there were substituted the words "an analyst at a point 4 compliant laboratory";

(b) Part I of Schedule 3 shall have effect as if in the certificate set out there for the words "agricultural analyst for" there were substituted the words "analyst at the"; and

(c) Part II of Schedule 3 shall have effect as if in note (2) for the words "local authority" there were substituted the word "laboratory"."

7. Yn Atodlen 2 (dulliau dadansoddi), yn Atodiad I i Ran II, yn union ar ôl y darnau am "Carbonates" mewnosodir yng ngholofnau 1 i 3, yn yr un drefn, yr eitemau isod —

"Dioxins and dioxin-like PCBs	Point 2 of Annex I to Directive 2002/70/EC and points 1 and 2, the second paragraph of point 3, the first three indents of point 4 and points 5 to 8 of Annex II to that Directive.	OJ No. L209, 6.8.2002, p.15".

Diwygio Rheoliadau Porthiant (Gorfodi) 1999

8. Diwygir Rheoliadau Porthiant (Gorfodi) 1999(**8**) o ran Cymru yn unol â rheoliadau 9 i 13 .

9. Yn lle paragraff (1) o reoliad 7 (addasu Deddf Amaethyddiaeth 1970 at ddibenion penodol) rhoddir y paragraff canlynol —

"(1) For the purpose specified in paragraph (2), the Act shall have effect subject to the modifications set out in regulations 8, 10, and 12.".

10. Yn lle rheoliad 8 (addasu cyfeiriadau yn Rhan IV o Ddeddf Amaethyddiaeth 1970 at samplau sydd wedi'u cymryd yn y modd rhagnodedig) rhoddir y rheoliad canlynol —

"**Modification of references in Part IV of the Agriculture Act 1970 to samples taken in the prescribed manner**

8. References in Part IV of the Act to samples taken in the prescribed manner shall be taken to refer —

(a) in the case of feeding stuffs, to samples taken in the manner prescribed in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999(**9**), the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001; and

(b) in the case of products other than feeding stuffs, to samples taken in the manner prescribed in section 76(8) of the Act.".

11. Yn rheoliad 10 (addasu adran 76 o Ddeddf Amaethyddiaeth1970) —

(a) hepgorir y geiriau "(as specified in regulation 7)";

(**8**) O.S. 1999/2325. Wedi'i addasu gan O.S. 2000/656 a'i ddiwygio gan O.S. 2001/2253 (Cy. 163), O.S. 2001/3461 (Cy. 280), O.S. 2002/1797 (Cy. 172) a 2003/ .
(**9**) O.S. 1999/1871 (y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn).

(b) yn lle'r fersiwn addasedig o is-adran (8) o adran 76 Deddf Amaethyddiaeth 1970 sydd wedi'i nodi yn y rheoliad hwnnw rhoddir yr is-adran ganlynol —

"(8) Subject to subsections (9), (10) and (12) of this section, an inspector entering premises by virtue of this section, or of a warrant issued under it, shall have the right to take on those premises a sample of any material appearing to him to be a controlled product other than relevant material as described in subsection (7) of this section, in the like manner as that prescribed in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003.";

(c) ym mhob un o'r fersiynau addasedig o is-adrannau (9) a (10) o adran 76 y Ddeddf honno fel y'i nodir ar ôl y geiriau "the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001" mewnosodir y geiriau ", the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001";

(ch) yn union ar ôl y fersiwn addasedig o adran (8) o adran 76 y Ddeddf honno fel y'i nodir yno mewnosodir yr is-adran ganlynol —

"(8A) For the purposes of this Part of this Act a sample taken in accordance with subsection (8) of this section shall be deemed to be taken in the prescribed manner."; and

(d) Yn y fersiwn addasedig o is-adran (9) o adran 76 o'r Ddeddf honno fel y'i nodir felly yn lle'r ymadrodd "subsection (8)" mewnosodir yr ymadrodd "subsections (8) and (10)".

12. Yn lle rheoliad 11 ac 11A (addasuadrannau 77(4) a 78(6) o Ddeddf Amaethyddiaeth 1970) rhoddir y rheoliadau canlynol—

"**Analysis for the purposes of sections 77(4) and 78(6) of the Agriculture Act 1970**

11. For the purpose of the enforcement and administration of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Amendment) (Wales) Regulations 2003 analysis in relation to a sample of a product which falls to be inspected pursuant to Directive 95/53 but is not —

(a) a feeding stuff;

(b) a premixture to which Part A or Part B of Commission Directive 2002/45/EC establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryphophan in feeding stuffs applies; or

(c) a feed material to which Annex II to Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs applies,

shall be treated as carried out in the prescribed manner for the purposes of sections 77(4) and 78(6) of the Act if —