WELSH STATUTORY INSTRUMENTS

2003 No. 1635 (W.177)

FOOD, WALES

The Fish Labelling (Wales) Regulations 2003

Made - - - -	*24th June 2003*
Coming into force - -	*30th June 2003*

The National Assembly for Wales in exercise of the powers conferred by sections 16(1)(e) and (f), 17(2), 26(3) and 48(1) of the Food Safety Act 1990(**1**), and now vested in it(**2**), having had regard in accordance with section 48(4A) of that Act to 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 that Act, hereby makes the following Regulations:

Title, commencement and application

1. These Regulations may be cited as the Fish Labelling (Wales) Regulations 2003, shall come into force on 30th June 2003 and shall apply to Wales only.

Interpretation

2. In these Regulations —

"Regulation 104/2000" ("*Rheoliad 104/2000*") means Council Regulation (EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products(**4**);

"Regulation 2065/2001" ("*Rheoliad 2065/2001*") means Commission Regulation (EC) No. 2065/2001 laying down detailed rules for the application of Council Regulation (EC) No. 104/2000 as regards informing consumers about fishery and aquaculture products(**5**);

and any expressions used in these Regulations and in Regulation 104/2000 or Regulation 2065/2001 have the same meaning as in those Regulations.

(**1**) 1990 c. 16. Section 26(3) of the Food Safety Act 1990 was amended by section 40(4) of, and Schedule 6 to, the Food Standards Act 1999.
(**2**) Functions of formerly exercisable by 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 1999 (1999 c. 28).
(**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**) OJ No. L17, 21.1.2000, p.22.
(**5**) OJ No. L278, 23.10.2001, p.6.

Offences relating to consumer information

3.—(1) Any person who, in contravention of Article 4.1 of Regulation 104/2000 (consumer information) as read with Regulation 2065/2001, offers for retail sale to the final consumer any of the products to which that Article applies shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person who fails to comply with Article 8 of Regulation 2065/2001 (traceability and control) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Lists of commercial designations

4.—(1) As regards Wales, the list of commercial designations which the United Kingdom is required to draw up and publish under Article 4(2) of Regulation 104/2000 is that set out in the Schedule to these Regulations, and accordingly, the commercial designations set out in that Schedule are names prescribed by law for the purposes of regulations 6(1), 7 and 8(a) of the Food Labelling Regulations 1996(**6**).

(2) In relation to a species included both in the Schedule to these Regulations and in a list published in English under Article 4(2) of Regulation 104/2000 having effect in another Member State or in another part of the United Kingdom, the commercial designation for that species in the list having effect in that other Member State or part of the United Kingdom shall be an alternative to the commercial designation for that species set out in the Schedule to these Regulations.

Omission of reference to the production method

5. In the case described in Article 4.2 of Regulation 2065/2001 (situation where it is obvious from commercial designation and catch area that the species is caught at sea) it shall not be a contravention of Article 4.1 of Regulation 104/2000 to offer for retail sale to the final consumer a fisheries product to which that Article applies without the product being marked or labelled with the production method.

Small quantities of products

6.—(1) For the purposes of Article 4(1) of Regulation 104/2000 as read with Article 7 of Regulation 2065/2001, the small quantity of products which may be sold directly to consumers shall be products to a value not exceeding 20 Euro for each purchase.

(2) For the purposes of this regulation, the reference to 20 Euro shall be taken to be a reference to the sterling equivalent of that number of Euro, converted by reference to the rate of conversion published annually on the first working day of the preceding September in the C series of the Official Journal of the European Communities or, if no rate is published in it on that day, the first rate published in it thereafter.

Additional information relating to the catch area

7. The indication of catch area required by Article 4(1)(c) of Regulation 104/2000 may, where the circumstances described in Article 5(1)(c) of Regulation 2065/2001 apply, indicate the various Member States or third countries in which the product was farmed.

(**6**) S.I. 1996/1499; regulation 6(4) (which defines "prescribed by law" for the purposes of regulations 6(1), 7 and 8(a)) was inserted by S.I. 1998/1398.

Provisional commercial designations

8.—(1) For the purposes of Article 2 of Regulation 2065/2001 (provisional commercial designations), the Food Standards Agency ("the Agency") shall be the competent authority.

(2) The Agency shall draw up and publish a list of provisional commercial designations laid down pursuant to the said Article 2.

Enforcement

9. Each food authority shall enforce and execute these Regulations in its area.

Application of various provisions of the Act

10. The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part of the Act shall be construed as a reference to these Regulations and to those provisions of Regulation 104/2000 and Regulation 2065/2001 to which these Regulations relate —

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

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

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

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

(e) section 32 of the Act (powers of entry);

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

(g) 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 (f) above;

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

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

(j) section 36 (offences by bodies corporate);

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

Revocation

11. Paragraph 1 of Schedule 1 to the Food Labelling Regulations 1996 (prescribed names of fish and shellfish) is revoked insofar as it applies to Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**7**)

D. Elis-Thomas
24th June 2003 — The Presiding Officer of the National Assembly

(**7**) 1998 c. 38.

SCHEDULE

Regulation 4

COMMERCIAL DESIGNATIONS

1.—(1) Subject to subparagraphs (2) and (3) of this paragraph, the commercial designation for any species of fish specified in column 2 of the following Table shall be a name specified for that species in the corresponding entry in column 1 of the said Table.

(2) A customary name may be used for any species of fish which has been subjected to smoking or any similar process, unless the name of the species in column 2 of the following Table is followed by an asterisk. In such cases the name used for the food when the fish is smoked shall be either —

(a) a name specified for that species in column 1 of the said Table preceded by the word "smoked", or

(b) except in the case of Salmo salar (L.), "smoked Pacific salmon".

(3) Subparagraph (1) of this paragraph, as read with the following Table, shall not apply to fish regulated by Council Regulation (EEC) No 2136/89(**8**) laying down common marketing standards for preserved sardines, or Council Regulation (EEC) No 1536/92(**9**) laying down common marketing standards for preserved tuna and bonito.

(i) Column 1 Commercial designation	*(ii) Column 2* Species of fish
(3) Sea Fish	
Anchovy	All species of the family *Engraulidae*
Barracuda	All species of *Sphyraena*
Barramundi	(a) (a) *Lates calcarifer*
Bass *or* Sea bass	*Dicentrarchus labrax (L.)*
Japanese sea bass	*Lateolabrax japonicus*
Spotted sea bass	*Dicentrarchus punctatus*
Southern rock bass	*Paralabrax callaensis*
Bigeye	All species of *Priacanthus*
Bluefish *or* Tailor	*Pomatomus saltatrix*
Bogue	*Boops boops*
Bonito	All species of *Sarda* All species of *Euthynnus,* with the exception of *Euthynnus (Katsuwonus) pelamis* All species of *Auxis*
Brill	*Scophthalmus rhombus* (L.)
Brisling	*Sprattus sprattus* (L.) when canned
Catfish *or* Rockfish *or* Wolffish	All species of *Anarhichas*
Cobia	*Rachycentron canadum*

(**8**) OJ No. L212, 22.7.89, p.79.
(**9**) OJ No. L163, 17.6.92, p.1.

(i) Column 1 Commercial designation	*(ii) Column 2* Species of fish
Cod *or* Codling	*Gadus morhua*
Pacific cod *or* Cod	*Gadus macrocephalus*
Greenland cod *or* Cod	*Gadus ogac*
Saffron cod	*Eleginus gracilis*
Red cod	*Pseudophycis bachus*
Blue cod	*Parapercis colias*
Coley *or* Saithe *or* Coalfish	*Pollachius virens* (L.)
Conger	All species of *Conger*
Croaker *or* Drum *or* Jewfish	All species of the family *Sciaenidae*
Dab	*Limanda limanda* (L.)
Yellowtail dab	*Limanda ferruginea*
Pacific sand dab	(ii) Citharichthys sordidus
Dogfish *or* Flake *or* Huss *or* Rigg *or* Rock Salmon *or* Rock Eel	All species of *Galeorhinus* All species of *Mustelus* All species of *Scyliorhinus* *Galeus melastomus* Rafin. *Squalus acanthias* (L.)
Dory *or* John Dory *or* St Peter's fish	*Zeus faber* (L.)
Eel	All species of *Anguilla*
Emperor	All species of *Lethrinus*
Escolar *or* Snake Mackerel	(iii) *All species of the family* Gempylidae
Flounder	*Platichthys flesus* (L.)
Flying fish	All species of the family *Exocoetidae*
Greenling	(a) (a) *Ophiodon elongatus*
Grouper	All species of *Mycteroperca* All species of *Epinephelus*
Gurnard	All species of the family *Triglidae* *Peristedion cataphractum* (L.)
Haddock	*Melanogrammus aeglefinus* (L.)
Hake	All species of *Merluccius* Alternatively, the following may be used
Cape hake	(iv) Merluccius capensis