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## CYNULLIAD CENEDLAETHOL CYMRU

## NATIONAL ASSEMBLY FOR WALES

### OFFERYNNAU STATUDOL

### STATUTORY INSTRUMENTS

**2002 Rhif 3157 (Cy.293)**

**2002 No. 3157 (W.293)**

### **BWYD, CYMRU**

### **FOOD, WALES**

**Rheoliadau Cafa-cafa mewn Bwyd  
(Cymru) 2002**

**The Kava-kava in Food (Wales)  
Regulations 2002**

### **NODYN ESBONIADOL**

### **EXPLANATORY NOTE**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

*(This note is not part of the Regulations)*

Mae'r Rheoliadau hyn yn gwahardd gwerthu, meddu gyda'r bwriad o werthu, amlygu neu hysbysebu ar gyfer gwerthu, a mewnofrio i Gymru o'r tu allan i'r Deyrnas Unedig neu gludo i Gymru o unrhyw ran arall o'r Deyrnas Unedig, unrhyw fwyd sy'n deillio o, neu sy'n cynnwys Cafa-cafa (sef planhigyn neu ran o blanhigyn, neu ddarn o blanhigyn o'r fath, sy'n perthyn i'r rhwyogaeth *Piper methysticum*) (rheoliad 3). Gellir trin unrhyw fwyd o'r fath fel bwyd sy'n anaddas i'w fwyta gan bobl a gall fod yn agored i gael ei atafaelu a'i ddinistrio (rheoliad 5(3)).

These Regulations prohibit the sale, possession for sale, offer, exposure or advertisement for sale, and the importation into Wales from outside the United Kingdom or the transportation into Wales from any other part of the United Kingdom, of any food consisting of, or containing, Kava-kava (being a plant or part of a plant, or an extract from such a plant, belonging to the species *Piper methysticum*) (regulation 3). Any such food may be treated as being unfit for human consumption and be liable to be seized and destroyed (regulation 5(3)).

Hysbyswyd drafft o'r Rheoliadau i'r Comisiwn Ewropeaidd yn unol ag Erthygl 8 o Gyfarwyddeb Senedd Ewrop a'r Cyngor 98/34/EC sy'n gosod gweithdrefn ar gyfer darparu gwybodaeth ym maes safonau a rheoliadau technegol a rheolau gwasanaethau y Gymdeithas Wybodaeth (OJ Rhif L204, 21.7.1998, t.37), fel y'i diwygiwyd gan Gyfarwyddeb Senedd Ewrop a'r Cyngor 98/48/EC (OJ Rhif L217, 5.8.1998, t.18).

A draft of the Regulations was notified to the European Commission in accordance with Article 8 of the European Parliament and Council Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations and of rules of Information Society services (OJ No. L204, 21.7.1998, p.37), as amended by the European Parliament and Council Directive 98/48/EC (OJ No. L217, 5.8.1998, p.18).

Paratowyd Arfarniad Effaith Rheoliadol a'i osod yn Llyfrgell Cynulliad Cenedlaethol Cymru a gellir cael copiâu oddi wrth yr Asiantaeth Safonau Bwyd, Llawr 1, Southgate House, Caerdydd, CF10 1EW.

A Regulatory Impact Assessment has been prepared and placed in the Library of the National Assembly for Wales and copies can be obtained from the Food Standards Agency, 1st Floor, Southgate House, Cardiff, CF10 1EW.

**2002 Rhif 3157 (Cy.293)****2002 No. 3157 (W.293)****BWYD, CYMRU****FOOD, WALES****Rheoliadau Cafu-cafu mewn Bwyd  
(Cymru) 2002****The Kava-kava in Food (Wales)  
Regulations 2002***Wedi'u gwneud* 17 Rhagfyr 2002*Made* 17th December 2002*Yn dod i rym* 9 Ionawr 2003*Coming into force* 9th January 2003

Drwy arfer y pwerau a roddwyd iddo gan adrannau 16(1)(a), (e) ac (f), 18(1)(c), 26(1) a (3) a 48(1) o Ddeddf Diogelwch Bwyd 1990(a) ac sydd bellach wedi'u breinio yng Nghynulliad Cenedlaethol Cymru(b), ac wedi parchu yn unol ag adran 48(4A) o'r Ddeddf honno gyngor perthnasol a roddwyd gan yr Asiantaeth Safonau Bwyd ac ar ôl ymgynghori fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor(c) ac yn unol ag adran 48(4) a (4B) o'r Ddeddf honno, mae Cynulliad Cenedlaethol Cymru drwy hyn yn gwneud y Rheoliadau canlynol:

In exercise of the powers conferred by sections 16(1)(a), (e) and (f), 18(1)(c), 26(1) and (3) and 48(1) of the Food Safety Act 1990(a) and now vested in the National Assembly for Wales(b), 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(c) and in accordance with section 48(4) and (4B) of the said Act, hereby makes the following Regulations:

**Teitl, cychwyn a chymhwys****Title, commencement and application**

1. Ar gyfer y Rheoliadau hyn -
  - (a) eu henw fydd Rheoliadau Cafu-cafu mewn Bwyd (Cymru) 2002;
  - (b) deuant i rym ar 9 Ionawr 2003;
  - (c) byddant yn gymwys i Gymru yn unig.

1. These Regulations -
  - (a) may be cited as the Kava-kava in Food (Wales) Regulations 2002;
  - (b) shall come into force on 9th January 2003;
  - (c) shall apply to Wales only.

**Dehongli****Interpretation**

2. Yn y Rheoliadau hyn -
 

ystyr "awdurdod iechyd porthladd" ("*port health authority*") yw -

mewn perthynas ag unrhyw ardal iechyd porthladd a gyfansoddyd drwy orchymyn o dan adran 2(3) o Ddeddf Iechyd y Cyhoedd (Rheoli Afiechydon) 1984(ch), awdurdod iechyd porthladd ar gyfer yr ardal honno a gyfansoddyd drwy orchymyn o dan adran 2(4) o'r

2. In these Regulations -
 

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

"Kava-kava" ("*Cafu-cafu*") means a plant, or any part of or an extract from a plant, belonging to the species *Piper methysticum*;

"port health authority" ("*awdurdod iechyd porthladd*") means -

(a) 1990 p.16.

(a) 1990 c.16.

(b) Trosglwyddwyd swyddogaethau yr Ysgrifennydd Gwladol i'r graddau y maent yn arferadwy mewn perthynas â Chymru i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), fel y caiff ei ddarllen gydag adran 40(3) o Ddeddf 1999.

(b) Functions of the Secretary of State 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 1999 Act.

(c) OJ Rhif L31, 1.2.2002, t.1; sy'n gosod egwyddorion cyffredinol a gofynion cyfraith fwyd, yn sefydlu'r Awdurdod Diogelwch Bwyd Ewropeaidd ac yn gosod gweithdrefnau mewn materion sy'n ymwneud â diogelwch bwyd.

(c) 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.

(ch) 1984 p.22

Ddeddf honno.

ystyr "Cafa-cafa" ("*Kava-kava*") yw planhigyn, neu unrhyw ran ohono neu ddarn o blanhigyn, sy'n perthyn i'r rhywogaeth *Piper methysticum*;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Diogelwch Bwyd 1990;

### **Gwaharddiad ar werthu etc. bwyd sydd wedi'i wneud o Cafu-cafa neu sy'n ei gynnwys**

3. Ni chaiff unrhyw berson -

- (a) werthu, neu
- (b) feddu ar gyfer gwerthu neu gynnig, amlygu neu hysbysebu ar gyfer gwerthu, neu
- (c) fewnforio i Gymru o'r tu allan I'r Deyrnas Unedig neu gludo i Gymru o unrhyw ran arall o'r Deyrnas Unedig unrhyw fwyd sy'n cynnwys Cafu-cafa.

### **Cosb a gorfodi**

4.-(1) Bydd unrhyw berson sy'n tramgwyddo neu sy'n methu â chydymffurfio â rheoliad 3 yn euog o dramgwydd a bydd yn agored ar gollfarn ddiannod i ddirwy nad yw'n fwy na lefel 5 ar y raddfa safonol.

(2) Yn ddarostyngedig i baragraff (3), rhaid i bob awdurdod bwyd orfodi darpariaethau'r Rheoliadau hyn o fewn ei ardal.

(3) Rhaid i bob awdurdod iechyd porthladd orfodi darpariaethau'r Rheoliadau hyn o fewn ei ardal.

### **Cymhwyso darpariaethau amrywiol Deddf Diogelwch Bwyd 1990**

5.-(1) Bydd darpariaethau canlynol y Ddeddf yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiad bod unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf neu Ran ohoni yn cael eu dehngli at ddibenion y Rheoliadau hyn fel cyfeiriad at y Rheoliadau hyn -

- (a) adran 2 (ystyr estynedig "sale" etc);
- (b) adran 3 (rhagdybiaeth fod bwyd wedi'i fwriadu i gael ei fwyta gan bobl);
- (c) adran 20 (tramgwyddau o ganlyniad i fai person arall);
- (ch) adran 21 (amddiffyniad o ddiwydrwydd dyladwy) fel y mae'n gymwys at ddibenion adrannau 8, 14 neu 15 o'r Ddeddf;
- (d) adran 22 (amddiffyniad o gyhoeddi yng nghwrs busnes);
- (dd) adran 30(8) (sy'n ymwneud â thystiolaeth ddogfennol);
- (e) adran 33(1) (rhwystro etc swyddogion);
- (f) adran 33(2), gyda'r addasiad bod y cyfeiriad at

in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984(a), a port health authority for that district constituted by order under section 2(4) of that Act.

### **Prohibition on sale etc. of food consisting of or containing Kava-kava**

3. No person shall -

- (a) sell, or
- (b) possess for sale or offer, expose or advertise for sale, or
- (c) import into Wales from a country outside the United Kingdom or transport into Wales from any other part of the United Kingdom any food consisting of or containing Kava-kava.

### **Penalty and enforcement**

4.-(1) Any person who contravenes or fails to comply with regulation 3 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 within its area the provisions of these Regulations.

(3) Each port health authority shall enforce within its district the provisions of these Regulations.

### **Application of various provisions of the Food Safety Act 1990**

5.-(1) 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 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 the Act;
- (e) section 22 (defence of publication in the course of a 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

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(a) 1984 c.22.

"any such requirement as is mentioned in subsection 1(b) above" yn cael ei ystyried fel cyfeiriad at unrhyw ofyniad o'r fath ag a grybywllir yn adran 33(1)(b) fel y caiff ei chymhwyso gan is-baragraff (e);

- (ff) adran 35(1) (cosbi am dramgwyddau), i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(1) fel y caiff ei chymhwyso gan is-baragraff (e);
- (g) adran 35(2) a (3), i'r graddau y maent yn ymwneud â thramgwyddau o dan adran 33(2) fel y caiff ei chymhwyso gan is-baragraff (f);
- (ng) adran 36 (tramgwyddau gan gyrff corfforaethol);
- (h) adran 58(1) (sy'n ymwneud â dyfroedd tiriogaethol).

(2) Bydd adran 8(3) o'r Ddeddf (sy'n gwneud rhagdybiaethau yn achos sypiau etc. o fwyd) yn gymwys i fwyd y mae'n dramgwydd ei werthu o dan y Rheoliadau hyn fel y mae'n gymwys i fwyd nad yw'n cydymffurfio â gofynion diogelwch bwyd.

(3) Bydd adran 9 o'r Ddeddf (archwilio ac atafaelu bwyd dan amheuaeth) yn gymwys at ddibenion y Rheoliadau hyn fel pe bai bwyd y mae'n dramgwydd ei werthu oddi tanynt yn fwyd a fethodd a chydymffurfio â gofynion diogelwch bwyd.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a)

17 Rhagfyr 2002

*D. Elis-Thomas*

Llywydd y Cynulliad Cenedlaethol

(a) 1998 p.38

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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 section 33(1)(b) as applied by sub-paragraph (g);

- (i) section 35(1) (punishment of offences), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (g);
- (j) section 35(2) and (3), in so far as it relates to offences under section 33(2) as applied by sub-paragraph (h);
- (k) section 36 (offences by bodies corporate);
- (l) section 58(1) (which relates to territorial waters).

(2) Section 8(3) of the Act (which makes presumptions in the case of batches etc. of food) shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.

(3) Section 9 of the Act (inspection and seizure of suspected food) shall apply for the purposes of these Regulations as if food which it were an offence to sell under them were food which failed to comply with food safety requirements.

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

17th December 2002

The Presiding Officer of the National Assembly

(a) 1998 c.38

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