CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2006 Rhif 1850 (Cy.193)

BWYD, CYMRU

Rheoliadau Halogion mewn Bwyd (Cymru) (Rhif 2) 2006

NODYN ESBONIADOL

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

1. Mae'r Rheoliadau hyn, sydd yn gymwys o ran Cymru, yn dirymu Rheoliadau Halogion mewn Bwyd (Cymru) 2006 (O.S. 2006/485) (Cy.55) ("Rheoliadau 2006") ac yn eu hailddeddfu gyda newidiadau. Maent yn darparu ar gyfer gweithredu a gorfodi Rheoliad y Comisiwn (EC) Rhif 466/2001 sy'n gosod lefelau uchaf ar gyfer halogion mewn bwydydd (OJ Rhif L77, 16.3.2001, t.1, gyda chywiriadau a diwygiadau) ("Rheoliad y Comisiwn"). Ers gwneud Rheoliadau 2006, cafodd Rheoliad y Comisiwn ei diwygio er mwyn-

(a) cyflwyno uchafswm lefelau a ganiateir a rheolaethau eraill yn ymwneud â thocsinau Fwsariwm penodol (Rheoliad y Comisiwn (EC) Rhif 856/2005, OJ Rhif L143, 7.6.2005, t.3); a

(b) cyflwyno rheolaethau newydd neu ddiwygiedig yn ymwneud â deuocsinau a swm diocsinau a PCB's sy'n debyg i ddeuocsinau (Rheoliad y Comisiwn (EC) Rhif 199/2006, OJ Rhif L32, 4.2.2006, t.34).

2. Mae'r Rheoliadau yn-

(a) darparu ei fod yn dramgwydd, (ac eithrio mewn achosion penodol yn ymwneud â rhoi bwyd ar y farchnad cyn dyddiad a roddir mewn deddfwriaeth Gymuned benodol)-

(i) rhoi bwydydd penodol ar y farchnad os ydynt yn cynnwys halogion o unrhyw fath a bennir yn Rheoliad y Comisiwn mewn lefelau uwch na'r rhai a bennir (yn ddarostyngedig i rhanddirymiad sy'n gymwys i fathau penodol o letus ac i sbigoglys ffres),

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2006 No. 1850 (W.193)

FOOD, WALES

The Contaminants in Food (Wales) (No. 2) Regulations 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply in relation to Wales, revoke and re-enact with changes the Contaminants in Food (Wales) Regulations 2006 (S.I. 2006/485) (W.55) ("the 2006 Regulations"). They make provision for the execution and enforcement of Commission Regulation (EC) No. 466/2001 setting maximum levels for contaminants in foodstuffs (OJ No. L77, 16.3.2001, p.1, as corrected and amended) ("the Commission Regulation"). Since the 2006 Regulations were made, the Commission Regulation has been amended so as to-

(a) introduce maximum permitted levels and other controls relating to certain Fusarium toxins (Commission Regulation (EC) No 856/2005, OJ No L143, 7.6.2005, p.3); and

(b) introduce new or amended controls relating to dioxins and the sum of dioxins and dioxin-like PCBs (Commission Regulation (EC) No 199/2006, OJ No L32, 4.2.2006, p.34).

2. The Regulations-

(a) provide that it is an offence, (except in certain cases relating to food placed on the market before a date given in specified Community legislation)-

(i) to place on the market certain foods if they contain contaminants of any kind specified in the Commission Regulation at levels exceeding those specified (subject to a derogation applicable to certain types of lettuce and to fresh spinach),

(ii) defnyddio bwyd sy'n cynnwys yr halogion hynny mewn lefelau o'r fath fel cynhwysion wrth gynhyrchu bwydydd penodol,

(iii) cymysgu bwydydd nad ydynt yn cydymffurfio â'r lefelau uchaf y cyfeirir atynt uchod gyda bwydydd sydd yn cydymffurfio,

(iv) cymysgu bwydydd y mae Rheoliad y Comisiwn yn ymwneud â nhw ac a fwriedir i'w bwyta gyda bwydydd y mae Rheoliad y Comisiwn yn ymwneud â nhw ac y bwriedir eu dosbarthu neu roi triniaeth arall iddynt cyn eu bwyta, neu

(v) dadwenwyno drwy driniaeth gemegol fwyd nad yw'n cydymffurfio â'r terfynau a nodwyd yn Rheoliad y Comisiwn (rheoliad 3);

(b) pennu'r awdurdodau gorfodi (rheoliad 4);

(c) darparu ar gyfer cymhwyso darpariaethau penodol o Ddeddf Diogelwch Bwyd 1990 at ddibenion y Rheoliadau hyn (rheoliad 5);

(ch) gwneud newid canlyniadol i Reoliadau Diogelwch Bwyd (Samplu a Chymwysterau) 1990 i'r graddau y maent yn gymwys i Gymru (rheoliad 6), gyda'r effaith o ddatgymhwyso'r darpariaethau samplu a dadansoddi yn y Rheoliadau hynny ond yn unig i'r graddau fod y materion hynny yn cael eu rheoleiddio gan offerynnau'r Gymuned a grybwyllir ym mharagraff 3(a) i (dd) isod.

3. Mae Rheoliad y Comisiwn yn pennu dulliau'r Gymuned o samplu a dadansoddi y mae'n rhaid eu defnyddio er mwyn rheoli'n swyddogol lefelau'r sylweddau a gwmpesir ganddo. Ceir y dulliau hynny yn-

(a) Cyfarwyddeb y Comisiwn 2001/22/EC sy'n gosod y dulliau samplu a dadansoddi ar gyfer rheoli'n swyddogol lefelau'r plwm, cadmiwm, mercwri a 3-MCPD sydd mewn bwydydd (OJ Rhif L77, 16.3.2001, t.14), fel y'i cywirwyd gan Benderfyniad y Comisiwn 2001/873/EC (OJ Rhif L325, 8.12.2001, t.34), ac fel y'i diwygiwyd gan Gyfarwyddeb y Comisiwn 2005/4/EC (OJ Rhif L19, 21.1.2005, t.50);

(b) Cyfarwyddeb y Comisiwn 2002/63/EC yn sefydlu dulliau'r Gymuned o samplu ar gyfer rheoli swyddogol o weddillion plaleiddiaid mewn cynhyrchion sy'n deillio o blanhigion ac o anifeiliaid ac arnynt (OJ Rhif L187, 16.7.2002, t.30);

(ii) to use food containing such contaminants at such levels as ingredients in the production of certain foods,

(iii) to mix foods that do not comply with the maximum levels referred to above with foods which do comply,

(iv) to mix foods to which the Commission Regulation relates and which are intended for direct consumption with foods to which the Commission Regulation relates and which are intended to be sorted or otherwise treated prior to consumption, or

(v) to detoxify by chemical treatment food not complying with the limits specified in the Commission Regulation (regulation 3);

(b) specify the enforcement authorities (regulation 4);

(c) provide for the application of specified provisions of the Food Safety Act 1990 for the purposes of these Regulations (regulation 5);

(d) make a consequential amendment to the Food Safety (Sampling and Qualifications) Regulations 1990 in so far as they apply in relation to Wales (regulation 6), the effect being to disapply the sampling and analysis provisions of those Regulations only to the extent that those matters are regulated by the Community instruments mentioned in paragraph 3(a) to (f) below.

3. The Commission Regulation specifies the Community methods of sampling and analysis that are required to be used for the official control of levels of the substances covered by it. Those methods are set out in-

(a) Commission Directive 2001/22/EC laying down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foodstuffs (OJ No. L77, 16.3.2001, p.14), as corrected by Commission Decision 2001/873/EC (OJ No. L325, 8.12.2001, p.34), and as amended by Commission Directive 2005/4/EC (OJ No. L19, 21.1.2005, p.50);

(b) Commission Directive 2002/63/EC establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin (OJ No. L187, 16.7.2002, p.30);

(c) Cyfarwyddeb y Comisiwn 2002/69/EC sy'n gosod y dulliau samplu a dadansoddi ar gyfer rheoli'n swyddogol ddeuocsinau a phenderfynu ar PCBs sy'n debyg i ddeuocsinau mewn bwydydd (OJ Rhif L209, 6.8.2002, t.5) fel y'u cywirwyd drwy gorigendwm a gyhoeddwyd ar 20 Medi 2002 (OJ Rhif L252, 20.9.2002, t.40), ac fel y'i diwygiwyd gan Gyfarwyddeb y Comisiwn 2004/44/EC (OJ Rhif L113, 20.4.2004, t.17);

(ch) Cyfarwyddeb y Comisiwn 2004/16/EC sy'n gosod y dulliau samplu a dadansoddi ar gyfer rheoli'n swyddogol lefelau'r tun sydd mewn bwydydd tun (OJ Rhif L42, 13.2.2004, t.16);

(d) Cyfarwyddeb y Comisiwn 2005/10/EC sy'n gosod y dulliau samplu a dadansoddi ar gyfer rheoli'n swyddogol lefelau'r benso(a)pyrene sydd mewn bwydydd (OJ Rhif L34, 8.2.2005, t.15), a

(dd) Rheoliad y Comisiwn (EC) Rhif 401/2006 sy'n gosod y dulliau samplu a dadansoddi ar gyfer rheoli'n swyddogol lefelau'r benso(a)pyrene sydd mewn bwydydd (OJ Rhif L70, 9.3.2006, t.12). Mae'r Rheoliad hwn yn diddymu'r Cyfarwyddebau samplu a dadansoddi 98/53/EC, 2002/26/EC, 2003/78/EC a 2005/38/EC, ac yn ei gwneud yn ofynnol darllen unrhyw gyfeiriad at y Cyfarwyddebau hynny yn Rheoliad y Comisiwn fel cyfeiriad at Reoliad y Comisiwn (EC) 401/2006.

4. Cafodd arfarniad rheoliadol o'r effaith y bydd yr offeryn hwn yn ei gael ar gostau busnes ei baratoi a'i osod yn Llyfrgell Cynulliad Cenedlaethol Cymru. Gellir cael copïau gan yr Asiantaeth Safonau Bwyd, Llawr 11, Southgate House, Caerdydd, CF10 1EW.

(c) Commission Directive 2002/69/EC laying down the sampling methods and the methods of analysis for the official control of dioxins and the determination of dioxin-like PCBs in foodstuffs (OJ No. L209, 6.8.2002, p.5), as corrected by a corrigendum published on the 20 September 2002 (OJ No. L252, 20.9.2002, p.40), and as amended by Commission Directive 2004/44/EC (OJ No. L113, 20.4.2004, p.17);

(d) Commission Directive 2004/16/EC laying down the sampling methods and the methods of analysis for the official control of the levels of tin in canned foods (OJ No. L42, 13.2.2004, p.16);

(e) Commission Directive 2005/10/EC laying down the sampling methods and the methods of analysis for the official control of the levels of benzo(a)pyrene in foodstuffs (OJ No. L34, 8.2.2005, p.15), and

(f) Commission Regulation (EC) No. 401/2006 laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs (OJ No. L 70, 9.3.2006, p.12). This Regulation repeals the sampling and analysis Directives 98/53/EC, 2002/26/EC, 2003/78/EC and 2005/38/EC, and stipulates that any reference to those Directives in the Commission Regulation is to be read as a reference to Commission Regulation (EC) 401/2006.

4. A regulatory appraisal of the effect that this instrument will have on the costs of business has been prepared and placed in the Library of the National Assembly for Wales. Copies may be obtained from the Food Standards Agency, 11th Floor, Southgate House, Cardiff, CF10 1EW.

OFFERYNNAU STATUDOL

2006 Rhif 1850 (Cy.193)

BWYD, CYMRU

Rheoliadau Halogion mewn Bwyd (Cymru) (Rhif 2) 2006

Wedi'u gwneud *11 Gorffennaf 2006*

Yn dod i rym *13 Gorffennaf 2006*

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd gan adrannau 16(1)(a), (e) ac (f), 17(2), 26(1)(a), (2)(e) a (3), a 48 (1) o Ddeddf Diogelwch Bwyd 1990(**1**), ac a freiniwyd ynddo ef bellach(**2**).

Yn unol ag adran 48(4) o'r Ddeddf honno, mae wedi rhoi ystyriaeth i gyngor perthnasol a roddwyd gan yr Asiantaeth Safonau Bwyd.

Cafwyd ymgynghori agored a thryloyw â'r cyhoedd yn ystod cyfnod paratoi a gwerthuso'r Rheoliadau hyn, fel sy'n ofynnol o dan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cygnor, sy'n pennu egwyddorion cyffredinol a gofynion cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn pennu gweithdrefnau o ran materion diogelwch bwyd(**3**).

Enwi, cymhwyso a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Halogion Bwyd (Diwygio) (Cymru) (Rhif 2), maent yn gymwys o ran Cymru a deuant i rym ar 13 Gorffennaf 2006.

(**1**) 1990 p.16.

(**2**) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan Ddeddf Diogelwch Bwyd 1990, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672).

(**3**) OJ Rhif L31, 1.2.2002, t.1. Diwygiwyd y Rheoliad hwnnw ddiwethaf gan Reoliad (EC) Rhif 1642/2003 Senedd Ewrop a'r Cyngor (OJ Rhif L245, 29.9.2003, t.4).

STATUTORY INSTRUMENTS

2006 No. 1850 (W.193)

FOOD, WALES

The Contaminants in Food (Wales) (No. 2) Regulations 2006

Made *11 July 2006*

Coming into force *13 July 2006*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred by sections 16(1)(a), (e) and (f), 17(2), 26(1)(a), (2)(e) and (3), and 48(1) of the Food Safety Act 1990(**1**), and now vested in it(**2**).

In accordance with section 48(4A) of that Act, it has had regard to relevant advice given by the Food Standards Agency.

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(**3**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Title, application and commencement

1. The title of these Regulations is the Contaminants in Food (Wales) (No. 2) Regulations 2006, they apply in relation to Wales and come into force on 13 July 2006.

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

(**2**) 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 (Transfer of Functions) Order 1999 (S.I. 1999/672).

(**3**) 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).

Dehongli

2.-(1) Yn y Rheoliadau hyn-

nid yw "awdurdod bwyd" ("*food authority*") yn cynnwys awdurdod iechyd porthladd;

ystyr "awdurdod iechyd porthladd" ("*port health authority*") mewn perthynas ag unrhyw ardal iechyd porthladd a sefydlwyd drwy orchymyn o dan adran 2(3) o Ddeddf Iechyd y Cyhoedd (Rheoli Clefydau) 1984, (**1**), yw awdurdod iechyd porthladd ar gyfer yr ardal honno a sefydlwyd gan orchymyn o dan adran 2(4) o'r Ddeddf;

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

ystyr "letus awdurdodedig" ("*authorised lettuce*") yw letus o'r math a bennir ym mhwynt 1.3 o adran 1 o Atodiad I i Reoliad y Comisiwn, sydd yn cydymffurfio ag amodau'r rhanddirymiad o dan Erthygl 3b.2 o'r Rheoliad hwnnw o ran y Deyrnas Unedig;

ystyr "Rheoliad y Comisiwn" ("*the Commission Regulation*") yw Rheoliad y Comisiwn (EC) Rhif 466/2001 sy'n gosod lefelau uchaf ar gyfer halogion penodol mewn bwydydd(**2**) fel y'i cywirwyd gan gorigendwm a gyhoeddwyd ar 30 Tachwedd 2001(**3**), ac fel y'i newidiwyd gan Reoliad y Cyngor (EC) Rhif 2375/2001(**4**), Rheoliad y Comisiwn (EC) Rhif 221/2002(**5**), Rheoliad y Comisiwn (EC) Rhif 257/2002(**6**), Rheoliad y Comisiwn (EC) Rhif 472/2002(**7**) fel y'i cywirwyd gan gorigendwm a gyhoeddwyd ar 23 Mawrth 2002(**8**), Rheoliad y Comisiwn (EC) Rhif 563/2002(**9**) fel y'i cywirwyd gan gorigendwm a gyhoeddwyd ar 14 Mehefin 2002(**10**), Rheoliad y Comisiwn (EC) Rhif 1425/2003(**11**), Rheoliad y Comisiwn (EC) Rhif 2174/2003(**12**), Rheoliad y

(**1**) 1984 p.22.

(**2**) OJ Rhif L77, 16.3.2001, t.1. Mae Erthygl 1.3 o'r Rheoliad hwn ac Atodiad I iddo yn pennu dulliau'r Gymuned o samplu a dadansoddi y mae'n ofynnol eu defnyddio i reolaethau'n swyddogol lefelau'r sylweddau a gwmpesir gan y Rheoliad. Ceir y dulliau hyn yng Nghyfarwyddebau'r Comisiwn 2001/22/EC, 2002/63/EC, 2002/69/EC, 2004/16/EC a 2005/10/EC ac yn Rheoliad y Comisiwn (EC) 401/2006. Rhoddir mwy o fanylion am yr offerynnau hynny yn y Nodyn Esboniadol i'r offeryn hwn.

(**3**) OJ Rhif. L313, 30.11.2001, t.60.

(**4**) OJ Rhif L321, 6.12.2001, t.1.

(**5**) OJ Rhif. L37, 7.2.2002, t.4.

(**6**) OJ Rhif. L41, 13.2.2002, t.12.

(**7**) OJ Rhif L75, 16.3.2002, t.18.

(**8**) OJ Rhif L80, 23.3.2002, t.42.

(**9**) OJ Rhif L86, 3.4.2002, t.5.

(**10**) OJ Rhif L155, 14.6.2002, t.63.

(**11**) OJ Rhif L203, 12.8.2003, t.1.

(**12**) OJ Rhif L326, 13.12.2003, t.12.

Interpretation

2.-(1) In these Regulations-

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

"authorised lettuce" ("*letus awdurdodedig*") means lettuce of the kind specified in point 1.3 of section 1 of Annex I to the Commission Regulation, which complies with the conditions of the derogation under Article 3b.2 of that Regulation in relation to the United Kingdom;

"authorised officer" ("*swyddog awdurdodedig*") means any person who is authorised in writing, either generally or specifically, by a food authority or as the case may be a port health authority to act in matters arising under these Regulations;

"authorised spinach" ("*sbigoglys awdurdodedig*") means spinach of the kind specified in point 1.1 of section 1 of Annex I to the Commission Regulation, which complies with the conditions of the derogation under Article 3b.1 of that Regulation in relation to the United Kingdom;

"the Commission Regulation" ("*Rheoliad y Comisiwn*") means Commission Regulation (EC) No. 466/2001 setting maximum levels for certain contaminants in foodstuffs(**1**) as corrected by a corrigendum published on 30 November 2001(**2**), and as amended by Council Regulation (EC) No. 2375/2001(**3**), Commission Regulation (EC) No. 221/2002(**4**), Commission Regulation (EC) No. 257/2002(**5**), Commission Regulation (EC) No. 472/2002(**6**) as corrected by a corrigendum published on 23 March 2002(**7**), Commission Regulation (EC) No. 563/2002(**8**) as corrected by a corrigendum published on 14 June 2002(**9**), Commission Regulation (EC) No. 1425/2003(**10**), Commission Regulation (EC) No. 2174/2003(**11**), Commission Regulation (EC) No. 242/2004(**12**),

(**1**) OJ No. L77, 16.3.2001, p.1. Article 1.3 of and Annex I to this Regulation specify the Community methods of sampling and analysis that are required to be used for the official control of levels of the substances covered by the Regulation. These methods are set out in Commission Directives 2001/22/EC, 2002/63/EC, 2002/69/EC, 2004/16/EC and 2005/10/EC, and in Commission Regulation (EC) 401/2006. More details of those instruments are given in the Explanatory Note to this instrument.

(**2**) OJ No. L313, 30.11.2001, p.60.

(**3**) OJ No. L321, 6.12.2001, p.1.

(**4**) OJ No. L37, 7.2.2002, p.4.

(**5**) OJ No. L41, 13.2.2002, p.12.

(**6**) OJ No. L75, 16.3.2002, p.18.

(**7**) OJ No. L80, 23.3.2002, p.42.

(**8**) OJ No. L86, 3.4.2002, p.5.

(**9**) OJ No. L155, 14.6.2002, p.63.

(**10**) OJ No. L203, 12.8.2003, p.1.

(**11**) OJ No. L326, 13.12.2003, p.12.

(**12**) OJ No. L42, 13.2.2004, p.3.

Comisiwn (EC) Rhif 242/2004(**1**), Rheoliad y Comisiwn (EC) Rhif 455/2004(**2**), Rheoliad y Comisiwn (EC) Rhif 655/2004(**3**), Rheoliad y Comisiwn (EC) Rhif 683/2004(**4**), Rheoliad y Comisiwn (EC) Rhif 684/2004(**5**), Rheoliad y Comisiwn (EC) Rhif 78/2005(**6**), Rheoliad y Comisiwn (EC) Rhif 123/2005(**7**), Rheoliad y Comisiwn (EC) Rhif 208/2005(**8**), Rheoliad y Comisiwn (EC) Rhif 856/2005(**9**), Rheoliad y Comisiwn (EC) Rhif 1822/2005(**10**) a Rheoliad y Comisiwn (EC) Rhif 199/2006(**11**);

ystyr "sbigoglys awdurdodedig" ("*authorised spinach*") yw sbigoglys o'r math a bennir ym mhwynt 1.1 o adran 1 o Atodiad I i Reoliad y Comisiwn, sydd yn cydymffurfio ag amodau'r rhanddirymiad o dan Erthygl 3b.1 o'r Rheoliad hwnnw o ran y Deyrnas Unedig;

ystyr "swyddog awdurdodedig" ("*authorised officer*") yw unrhyw berson sydd wedi ei awdurdodi yn ysgrifenedig, naill ai yn gyffredinol neu yn benodol, gan awdurdod bwyd neu, yn ôl y digwydd, awdurdod iechyd porthladd i weithredu mewn materion sy'n codi o dan y Rheoliadau hyn;

(2) Mae i unrhyw ymadrodd arall a ddefnyddir yn y Rheoliadau hyn ac yn Rheoliad y Comisiwn yr un ystyr yn y Rheoliadau hyn ag sydd i'r term Saesneg cyfatebol yn Rheoliad y Comisiwn.

Tramgwyddau a chosbau

3.-(1) Yn ddarostyngedig i'r trefniadau trosiannol a geir yn y darpariaethau Cymunedol a bennir ym mharagraff (2), mae person yn euog o dramgwydd ac yn agored ar gollfarn ddiannod i ddirwy heb fod yn uwch na lefel 5 ar y raddfa safonol-

(a) os yw'r person hwnnw yn rhoi unrhyw fwyd ar y farchnad (ac eithrio letus awdurdodedig neu sbigoglys awdurdodedig) a gwmpesir gan Erthygl 1.1, 2.1, 2.2 neu 4.1 o Reoliad y Comisiwn, ond nad yw'n cydymffurfio â'r erthyglau hynny o'r Rheoliad hwnnw, fel y'u darllenir gydag Erthyglau 1.2 a 4.3 ohono; neu

(b) os yw'r person hwnnw yn mynd yn groes i Erthygl 2.3, 4.2 neu 4a o Reoliad y Comisiwn.

(**1**) OJ Rhif L42, 13.2.2004, t.3

(**2**) OJ Rhif L74, 12.3.2004, t.11.

(**3**) OJ Rhif L104, 8.4.2004, t.48.

(**4**) OJ Rhif L106, 15.4.2004, t.3.

(**5**) OJ Rhif L106, 15.4.2004, t.6.

(**6**) OJ Rhif L16, 20.1.2005, t.43.

(**7**) OJ Rhif L25, 28.1.2005, t.3.

(**8**) OJ Rhif L34, 8.2.2005, t.3.

(**9**) OJ Rhif L143, 7.6.2005, t.3.

(**10**) OJ Rhif L293, 9.11.2005, t.11.

(**11**) OJ Rhif L32, 4.2.2006, t.34.

Commission Regulation (EC) No. 455/2004(**1**), Commission Regulation (EC) No. 655/2004(**2**), Commission Regulation (EC) No. 683/2004(**3**), Commission Regulation (EC) No. 684/2004(**4**), Commission Regulation (EC) No. 78/2005(**5**), Commission Regulation (EC) No. 123/2005(**6**), Commission Regulation (EC) No. 208/2005(**7**), Commission Regulation (EC) No. 856/2005(**8**) Commission Regulation (EC) No. 1822/2005(**9**), and Commission Regulation (EC) No. 199/2006(**10**);

"food authority" ("*awdurdod bwyd*") does not include a port health authority;

"port health authority" ("*awdurdod iechyd Porthladd*") means in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984(**11**), a port health authority for that district constituted by order under section 2(4) of that Act.

(2) Any other expression used in these Regulations and in the Commission Regulation has the same meaning in these Regulations as it bears in the Commission Regulation.

Offences and penalties

3.-(1) Subject to the transitional arrangements contained in the Community provisions specified in paragraph (2), a person is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale if-

(a) that person places on the market any food (other than authorised lettuce or authorised spinach) which is covered by, but fails to meet the requirements of, Article 1.1, 2.1, 2.2 or 4.1 of the Commission Regulation, as read with Articles 1.2 and 4.3 of that Regulation; or

(b) that person contravenes Article 2.3, 4.2 or 4a of the Commission Regulation.

(**1**) OJ No. L74, 12.3.2004, p.11.

(**2**) OJ No. L104, 8.4.2004, p.48.

(**3**) OJ No. L106, 15.4.2004, p.3.

(**4**) OJ No. L106, 15.4.2004, p.6.

(**5**) OJ No. L16, 20.1.2005, p.43.

(**6**) OJ No. L25, 28.1.2005, p.3.

(**7**) OJ No. L34, 8.2.2005, p.3.

(**8**) OJ No. L143, 7.6.2005, p.3.

(**9**) OJ No. L293, 9.11.2005, p.11.

(**10**) OJ No. L32, 4.2.2006, p.34.

(**11**) 1984 c.22.

(2) Y darpariaethau Cymunedol y cyfeirir atynt ym mharagraff (1) yw-

(a) Erthygl 7 o Rheoliad y Comisiwn;

(b) Erthygl 2 o Reoliad y Comisiwn (EC) Rhif 655/2004 sy'n diwygio Rheoliad (EC) Rhif 466/2001 parthed nitrad mewn bwydydd i fabanod a phlant bach;

(c) Erthygl 3 o Reoliad y Comisiwn (EC) Rhif 683/2004 sy'n diwygio Rheoliad (EC) Rhif 466/2001 parthed afflatocsinau ac ocratocsin A mewn bwydydd i fabanod a phlant bach;

(ch) Erthygl 2 o Reoliad y Comisiwn (EC) Rhif 123/2005 sy'n diwygio Rheoliad (EC) Rhif 466/2001 parthed ocratocsin A;

(d) Erthygl 2 o Reoliad y Comisiwn (EC) Rhif 208/2005 sy'n diwygio Rheoliad (EC) Rhif 466/2001 parthed hydrocarbonau polygylchol aromatig;

(dd) Erthygl 2 o Reoliad y Comisiwn (EC) Rhif 856/2005 sy'n diwygio Rheoliad (EC) Rhif 466/2001 parthed tocsinau Fusarium;

(e) Erthygl 2 o Reoliad y Comisiwn (EC) Rhif 199/2006 sy'n diwygio Rheoliad (EC) Rhif 466/2001 sy'n gosod lefelau uchaf ar gyfer halogion penodol mewn bwydydd parthed deucosinau a PCBs sy'n debyg i ddeuocsinau.

Gorfodi

4. Dyletswydd pob awdurdod bwyd o fewn ei ardal a phob awdurdod porthladd o fewn ei ranbarth yw gweithredu a gorfodi'r Rheoliadau hyn.

Cymhwyso gwahanol adrannau o Ddeddf Diogelwch Bwyd 1990

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

(a) adran 3 (rhagdybiaethau fod bwyd wedi'i fwriadu i'w fwyta gan bobl);

(b) adran 20 (tramgwyddau sy'n codi oherwydd bai person arall);

(c) adran 21 (amddiffyniad diwydrwydd dyladwy), fel y mae'n gymwys at ddibenion adran 14 neu 15;

(ch) adran 30(8) (sy'n ymwneud â thystiolaeth ddogfennol);

(d) adran 33(1) (rhwystro etc. swyddogion);

(dd) adran 33(2), gyda'r addasiad y bernir bod y cyfeiriad at "any such requirement as is mentioned in subsection (1)(b) above" yn gyfeiriad at unrhyw ofyniad a grybwyllir yn adran 33(1)(b) fel y'i cymhwysir gan is-baragraff (d);

(2) The Community provisions mentioned in paragraph (1) are-

(a) Article 7 of the Commission Regulation;

(b) Article 2 of Commission Regulation (EC) No. 655/2004 amending Regulation (EC) No. 466/2001 as regards nitrate in foods for infants and young children;

(c) Article 3 of Commission Regulation (EC) No. 683/2004 amending Regulation (EC) No. 466/2001 as regards aflatoxins and ochratoxin A in foods for infants and young children;

(d) Article 2 of Commission Regulation (EC) No. 123/2005 amending Regulation (EC) No. 466/2001 as regards ochratoxin A;

(e) Article 2 of Commission Regulation (EC) No. 208/2005 amending Regulation (EC) No. 466/2001 as regards polycyclic aromatic hydrocarbons;

(f) Article 2 of Commission Regulation (EC) No. 856/2005 amending Regulation (EC) No. 466/2001 as regards Fusarium toxins;

(g) Article 2 of Commission Regulation (EC) No. 199/2006 amending Regulation (EC) No. 466/2001 setting maximum levels for certain contaminants in foodstuffs as regards dioxins and dioxin-like PCBs.

Enforcement

4. It is the duty of each food authority within its area and each port health authority within its district to execute and enforce these Regulations.

Application of various sections of the Food Safety Act 1990

5.-(1) The following provisions of the Act will apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof will be construed as a reference to these Regulations-

(a) section 3 (presumptions that food 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 purpose of section 14 or 15;

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

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

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

(e) adran 35(1) (cosbi tramgwyddau), i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(1) fel y caiff ei chymhwyso gan is-baragraff (d);

(f) adran 35(2) a (3), i'r graddau y mae'n berthnasol i dramgwyddau o dan adran 33(2) fel y'i cymhwysir gan is-baragraff (dd);

(ff) adran 36 (tramgwyddau gan gyrff corfforaethol); a

(g) adran 44 (amddiffyn swyddogion sy'n gweithredu'n ddidwyll).

(2) Yn ddarostyngedig i baragraff (3) bydd adran 9 o'r Ddeddf (archwilio ac atafaelu bwyd amheus) yn gymwys at ddibenion y Rheoliadau hyn fel pe bai'n darllen fel a ganlyn-

"**9**.-(1) An authorised officer of a food authority may at all reasonable times inspect any food intended for human consumption which has been placed on the market and subsections (2) to (7) below will apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food contravenes regulation 3(1)(a) of the Contaminants in Food (Wales) (No. 2) Regulations 2006.

(2) The authorised officer may either-

(a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it-

(i) is not to be used for human consumption, and

(ii) either is not to be removed or is to be removed to a place at which there are facilities to carry out sampling in the manner required by Article 1.3 of the Commission Regulation; or

(b) seize the food and remove it in order to have it dealt with by a justice of the peace.

(3) Where the authorised officer exercises the power conferred by subsection (2)(a) above, the authorised officer is, as soon as is reasonably practicable and in any event within 21 days, to determine whether or not the authorised officer is satisfied that the food complies with the requirements referred to in regulation 3(1)(a) of the above Regulations, as appropriate and-

(a) if the authorised officer is so satisfied, will forthwith withdraw the notice;

(b) if the authorised officer is not so satisfied, will seize the food and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer exercises the powers conferred by subsection (2)(b) or (3)(b) above, the authorised officer will inform the person in charge of the food of the intention to have it

(g) section 35(1) (punishment of offences), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (e);

(h) section 35(2) and (3), in so far as it relates to offences under section 33(2) as applied by sub-paragraph (f);

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

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

(2) Subject to paragraph (3), section 9 of the Act (inspection and seizure of suspected food) will apply for the purposes of these Regulations as if it read as follows-

"**9**.-(1) An authorised officer of a food authority may at all reasonable times inspect any food intended for human consumption which has been placed on the market and subsections (2) to (7) below will apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food contravenes regulation 3(1)(a) of the Contaminants in Food (Wales) (No. 2) Regulations 2006.

(2) The authorised officer may either-

(a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it-

(i) is not to be used for human consumption, and

(ii) either is not to be removed or is to be removed to a place at which there are facilities to carry out sampling in the manner required by Article 1.3 of the Commission Regulation; or

(b) seize the food and remove it in order to have it dealt with by a justice of the peace.

(3) Where the authorised officer exercises the power conferred by subsection (2)(a) above, the authorised officer is, as soon as is reasonably practicable and in any event within 21 days, to determine whether or not the authorised officer is satisfied that the food complies with the requirements referred to in regulation 3(1)(a) of the above Regulations, as appropriate and-

(a) if the authorised officer is so satisfied, will forthwith withdraw the notice;

(b) if the authorised officer is not so satisfied, will seize the food and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer exercises the powers conferred by subsection (2)(b) or (3)(b) above, the authorised officer will inform the person in charge of the food of the intention to have it

dealt with by a justice of the peace and-

(a) any person who under regulation 3(1)(a) of the above Regulations might be liable to a prosecution in respect of the food will, if that person attends before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses; and

(b) that justice of the peace may, but need not, be a member of the court before which any person is proceeded against for an offence under regulation 3(1)(a) of the above Regulations in relation to that food.

(5) If it appears to a justice of the peace, on the basis of such evidence as the justice of the peace considers appropriate in the circumstances, that any food falling to be dealt with by the justice of the peace under this section fails to comply with the requirements referred to in regulation 3(1)(a) of the above Regulations the justice of the peace will condemn the food and order-

(a) the food to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and

(b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the food.

(6) If a notice under subsection (2)(a) above is withdrawn, or the justice of the peace by whom any food falls to be dealt with under this section refuses to condemn it, the food authority will compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right to or the amount of any compensation payable under subsection (6) above will be determined by arbitration.

(8) Any person who knowingly contravenes the requirements of a notice under subsection (2)(a) above will be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.".

(3) Bydd i'r ymadroddion "swyddog awdurdodedig", "awdurdod bwyd", "rhoi ar y farchnad", "Rheoliad y Comisiwn" sy'n cyfateb yn eu tro i "authorised officer", "food authority", "placing on the market", "the Commission Regulation" a ddefnyddir yn adran 9 o'r Ddeddf, i'r graddau y mae'n gymwys at ddibenion y Rheoliadau hyn yn rhinwedd paragraff (2), yr ystyron sydd i'r ymadroddion hynny yn eu trefn yn y Rheoliadau hyn.

dealt with by a justice of the peace and-

(a) any person who under regulation 3(1)(a) of the above Regulations might be liable to a prosecution in respect of the food will, if that person attends before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses; and

(b) that justice of the peace may, but need not, be a member of the court before which any person is proceeded against for an offence under regulation 3(1)(a) of the above Regulations in relation to that food.

(5) If it appears to a justice of the peace, on the basis of such evidence as the justice of the peace considers appropriate in the circumstances, that any food falling to be dealt with by the justice of the peace under this section fails to comply with the requirements referred to in regulation 3(1)(a) of the above Regulations the justice of the peace will condemn the food and order-

(a) the food to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and

(b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the food.

(6) If a notice under subsection (2)(a) above is withdrawn, or the justice of the peace by whom any food falls to be dealt with under this section refuses to condemn it, the food authority will compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right to or the amount of any compensation payable under subsection (6) above will be determined by arbitration.

(8) Any person who knowingly contravenes the requirements of a notice under subsection (2)(a) above will be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.".

(3) The expressions "authorised officer", "food authority", "placing on the market", "the Commission Regulation" which are used in section 9 of the Act so far as it applies for the purposes of these Regulations by virtue of paragraph (2), will, for those purposes, bear the meanings that those expressions respectively bear in these Regulations.

Diwygiad canlyniadol

6. Yn Atodlen 1 (darpariaethau nad yw'r Rheoliadau hyn yn gymwys iddynt) i Reoliadau Diogelwch Bwyd (Samplu a Chymwysterau) 1990(**1**) i'r graddau y maent yn gymwys i Gymru, yn lle'r cofnod sy'n ymwneud â'r Rheoliadau Halogion mewn Bwyd (Cymru) 2006 rhodder y cofnod a ganlyn-

"The Contaminants in Food (Wales) (No. 2) Regulations 2006 (to the extent that a sample falls to be prepared and analysed in accordance with the Commission Regulation as that expression is defined in those Regulations)	S.I. 2006/1850 (W.193)."

Dirymiadau

7. Dirymir Rheoliadau Halogion mewn Bwyd (Cymru) 2006(**2**).

Llofnodwyd ar ran y Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(**3**)

11 Gorffennaf 2006

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

Consequential amendment

6. In Schedule 1 (provisions to which those Regulations do not apply) to the Food Safety (Sampling and Qualifications) Regulations 1990(**1**) in so far as they apply to Wales, for the entry relating to the Contaminants in Food (Wales) Regulations 2006 there is substituted the following entry-

"The Contaminants in Food (Wales) (No. 2) Regulations 2006 (to the extent that a sample falls to be prepared and analysed in accordance with the Commission Regulation as that expression is defined in those Regulations)	S.I. 2006/1850 (W.193)."

Revocations

7. The Contaminants in Food (Wales) Regulations 2006(**2**) are revoked.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**3**)

11 July 2006

The Presiding Officer of the National Assembly

(**1**) O.S. 1990/2463.

(**2**) O.S. 2006/485 (Cy.55).

(**3**) 1998 p.38.

(**1**) S.I. 1990/2463.

(**2**) S.I. 2006/485 (W.55).

(**3**) 1998 c.38.

OFFERYNNAU STATUDOL

2006 Rhif 1850 (Cy.193)

BWYD, CYMRU

Rheoliadau Halogion mewn Bwyd (Cymru) (Rhif. 2) 2006

STATUTORY INSTRUMENTS

2006 No. 1850 (W.193)

FOOD, WALES

The Contaminants in Food (Wales) (No. 2) Regulations 2006

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