
WELSH STATUTORY INSTRUMENTS

2016 No. 639 (W. 175)

FOOD, WALES

The Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016

<i>Made</i>	- - - -	<i>12 July 2016</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>12 July 2016</i>
<i>Coming into force</i>	- -	<i>2 August 2016</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 6(4), 16(1), 17(1) and (2), 26(1) and (3), and 48(1) of the Food Safety Act 1990⁽¹⁾ and paragraph 1A of Schedule 2 to the European Communities Act 1972⁽²⁾.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for any references to specified provisions of Regulation (EU) No 609/2013 of the European Parliament and of the Council on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009⁽³⁾ to be construed as references to those provisions as amended from time to time.

So far as these Regulations are made in exercise of powers under the Food Safety Act 1990, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A)⁽⁴⁾ of that Act.

There has been consultation 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⁽⁵⁾, during the preparation and evaluation of the following Regulations.

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- (1) 1990 c. 16. Section 16(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) (“the 1999 Act”). Section 17(2) was amended by paragraphs 8 and 12 of Schedule 5 to the 1999 Act and S.I. 2011/1043. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Functions formerly exercisable by “the Ministers” so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act, and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (2) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2009 (c. 7), S.I. 2007/1388 and S.I. 2014/2303 (W. 227).
- (3) OJ No L 181, 29.6.2013, p. 35.
- (4) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.
- (5) OJ No L 31, 1.2.2002, p. 1, last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No. L 189, 27.6.2014, p. 1).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Title, application and commencement

1.—(1) The title of these Regulations is the Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 2 August 2016.

Commencement Information

I1 Reg. 1 in force at 2.8.2016, see [reg. 1\(3\)](#)

Interpretation

2.—(1) In these Regulations—

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

“the EU Regulation” (“*Rheoliad yr UE*”) means Regulation (EU) No 609/2013 of the European Parliament and of the Council on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009;

“specified EU requirement” (“*gofyniad UE penodedig*”) means a provision of the EU Regulation specified in column 1 of Schedule 1, as read with the provisions in column 2.

(2) Where any functions under the Act are assigned to a port health authority by an order under section 2 of the Public Health (Control of Disease) Act 1984⁽⁶⁾, any reference in these Regulations to a food authority is to be construed, so far as relating to those functions, as a reference to the port health authority to which they are assigned.

(3) Any reference to an Article or Annex in these Regulations is a reference to an Article of, or an Annex to, the EU Regulation.

(4) Any reference to a provision of the EU Regulation contained in the table in Schedule 1, except a reference to Article 1(1), is a reference to that provision as amended from time to time.

Commencement Information

I2 Reg. 2 in force at 2.8.2016, see [reg. 1\(3\)](#)

Enforcement

3. Each food authority must execute and enforce these Regulations within its area.

Commencement Information

I3 Reg. 3 in force at 2.8.2016, see [reg. 1\(3\)](#)

(6) 1984 c. 22.

Application of provisions of the Act

4.—(1) Section 10 of the Act (improvement notices) applies in relation to the enforcement of a specified EU requirement for the purposes of these Regulations, with the modifications specified in Part 1 of Schedule 2.

(2) Section 32 of the Act (powers of entry) applies in relation to the enforcement of a specified EU requirement for the purposes of these Regulations, with the modifications specified in Part 2 of Schedule 2.

(3) Section 35 of the Act (punishment of offences) applies in relation to the enforcement of a specified EU requirement for the purposes of these Regulations, with the modification specified in Part 3 of Schedule 2.

(4) Section 37(1), (3), (5) and (6) of the Act (appeals) applies to an improvement notice served in relation to a specified EU requirement, with the modifications (in the case of section 37(1), (5) and (6)) specified in Part 4 of Schedule 2.

(5) Section 39 of the Act (appeals against improvement notices) applies to an improvement notice served in relation to a specified EU requirement, with the modification specified in Part 5 of Schedule 2.

(6) The provisions of the Act specified in paragraph (7) apply in relation to the enforcement of a specified EU requirement for the purposes of these Regulations, insofar as they relate to the provisions of the Act specified in and modified by paragraphs (1) to (5).

(7) The provisions of the Act specified for the purposes of this paragraph are—

- (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);
- (d) section 22 (defence of publication in the course of business);
- (e) section 29 (procurement of samples);
- (f) section 30(8) (which relates to evidence of certificates given by a food analyst or examiner);
- (g) section 33 (obstruction etc. of officers);
- (h) section 36 (offences by bodies corporate);
- (i) section 36A (offences by Scottish partnerships);
- (j) section 44 (protection of officers acting in good faith);

and any reference in those provisions to a section of the Act, including a reference to “any of the preceding provisions of this Part”, is to be read as a reference to such sections of the Act that apply by virtue of, and with the modifications made by, these Regulations.

Commencement Information

I4 Reg. 4 in force at 2.8.2016, see [reg. 1\(3\)](#)

Revocation

5. The following Regulations are revoked—

- (a) the Notification of Marketing of Food for Particular Nutritional Uses (Wales) Regulations 2007(7);

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- (b) regulations 26 and 27 of the Infant Formula and Follow-on Formula (Wales) Regulations 2007⁽⁸⁾;
- (c) the Food for Particular Nutritional Uses (Miscellaneous Amendments) (Wales) Regulations 2010⁽⁹⁾;
- (d) regulation 3 of the Transfer of Functions (Food) (Wales) Regulations 2014⁽¹⁰⁾.

Commencement Information

I5 Reg. 5 in force at 2.8.2016, see [reg. 1\(3\)](#)

Amendments to statutory instruments

- 6. Schedule 3 has effect.

Commencement Information

I6 Reg. 6 in force at 2.8.2016, see [reg. 1\(3\)](#)

12 July 2016

Rebecca Evans
Minister for Social Services and Public Health,
under authority of the Cabinet Secretary for
Health, Well-being and Sport, one of the Welsh
Ministers

⁽⁸⁾ S.I. 2007/3573 (W. 316), amended by S.I. 2008/2602.
⁽⁹⁾ S.I. 2010/363 (W. 45).
⁽¹⁰⁾ S.I. 2014/1102 (W. 110).

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SCHEDULE 1

Regulation 2(1)

Specified EU requirements

Commencement Information

I7 Sch. 1 in force at 2.8.2016, see [reg. 1\(3\)](#)

<i>Column 1</i>	<i>Column 2</i>
<i>Specified provision of the EU Regulation</i>	<i>Provisions to be read with the specified provision of the EU Regulation</i>
Article 4(2) (requirement for relevant food to be pre-packed)	Articles 1(1) and 4(1)
Article 9(1) (requirement for the composition of food to be nutritionally appropriate and suitable)	Articles 1(1), 4(1) and 9(3)
Article 9(2) (prohibition on substances in dangerous quantities)	Articles 1(1) and 4(1)
Article 9(5) (requirements as to labelling, presentation and advertising of relevant food)	Articles 1(1), 4(1) and 9(6)
Article 10 (additional requirements for infant formula and follow-on formula)	Article 4(1)

SCHEDULE 2

Modification of provisions of the Act

Regulation 4(1)

PART 1

Modification of section 10

1. For section 10(1) (improvement notices) substitute—

“(1) If an authorised officer of an enforcement authority has reasonable grounds for believing that a person is failing to comply with a specified EU requirement, or has placed food on the market that does not comply with a specified EU requirement, the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)—

- (a) state the officer’s grounds for believing that the person is failing to comply, or as the case may be, that the food does not comply with the specified EU requirement;
- (b) specify the matters which constitute the failure to so comply;
- (c) specify the measures which, in the officer’s opinion, the person must take in order to secure compliance; and
- (d) require the person to take those measures, or such measures that are at least equivalent to them, within such period as may be specified in the notice.”