CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2005 Rhif 3051 (Cy.228)

BWYD, CYMRU

Rheoliadau Cynhyrchion Buchol (Cyfyngu ar eu Rhoi ar y Farchnad) (Cymru) 2005

NODYN ESBONIADOL

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

1. Mae'r Rheoliadau hyn, sy'n gymwys o ran Cymru, yn rhoi ei heffaith i Erthygl 1.1 o Benderfyniad y Comisiwn 2005/598/EC sy'n gwahardd rhoi ar y farchnad gynhyrchion sy'n dod o anifeiliaid buchol a anwyd neu a fagwyd yn y Deyrnas Unedig cyn 1 Awst 1996 at unrhyw ddiben ac sy'n esemptio anifeiliaid o'r fath rhag mesurau rheoli a difodi penodol a geir yn Rheoliad (EC) Rhif 999/2001 (OJ Rhif L204, 5.8.2005, t.22).

2. Mae Erthygl 1.1 o Benderfyniad y Comisiwn 2005/598/EC yn darparu na ellir rhoi ar y farchnad gynhyrchion penodol sy'n dod o anifeiliaid buchol a anwyd neu a fagwyd yn y Deyrnas Unedig cyn 1 Awst 1996.

3. Rhoddir effaith i'r gwaharddiad hwnnw gan reoliad 3 o'r Rheoliadau hyn.

4. Mae'r Rheoliadau hyn hefyd-

(a) yn cymhwyso gydag addasiadau ddarpariaethau penodol o Ddeddf Diogelwch Bwyd 1990 (1990 p. 16) at ddibenion y Rheoliadau hyn (rheoliad 4);

(b) yn darparu ar gyfer archwilio a chymryd meddiant o gynhyrchion yr amheuir eu bod wedi cael eu rhoi ar y farchnad yn groes i reoliad 3 o'r Rheoliadau hyn (rheoliad 5);

(c) yn creu tramgwyddau a chosbau (rheoliad 6);

(ch) yn gwneud darpariaeth ar gyfer eu gorfodi (rheoliad 7);

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2005 No. 3051 (W.228)

FOOD, WALES

The Bovine Products (Restriction on Placing on the Market) (Wales) Regulations 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply in relation to Wales, give effect there to Article 1.1 of Commission Decision 2005/598/EC prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1 August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001 (OJ No. L204, 5.8.2005, p.22).

2. Article 1.1 of Commission Decision 2005/598/EC provides that certain products derived from bovine animals born or reared within the United Kingdom before 1 August 1996 may not be placed on the market.

3. That prohibition is given effect by regulation 3 of these Regulations.

4. These Regulations also-

(a) apply with modifications certain provisions of the Food Safety Act 1990 (1990 c. 16) for the purposes of these Regulations (regulation 4);

(b) provide for the inspection and seizure of products that are suspected of having been placed on the market in contravention of regulation 3 or these Regulations (regulation 5);

(c) create offences and penalties (regulation 6);

(d) make provision for their enforcement (regulation 7);

(d) yn diwygio rheoliad 3 o Reoliadau Sgil-gynhyrchion Anifeiliaid (Adnabod) 1995 (O.S. 1995/614) i'r graddau y mae yn gymwys o ran Cymru, sy'n ganlyniadol i reoliad 3 o'r Rheoliadau hyn a rheoliad 10A(5) o Reoliadau TSE (Cymru) 2002 (O.S. 2002/1416 (Cy.142), a fewnosodwyd gan reoliad 4 o Reoliadau TSE (Cymru) (Diwygio) (Rhif 2) 2005 (O.S. 2005/) (rheoliad 8) ac

(dd) yn dirymu'r Rheoliadau Cig Ffres (Rheolaethau Cig Eidion) (Rhif. 2) 1996 (O.S.1996/2097) i'r graddau y maent yn gymwys o ran Cymru (rheoliad 9).

5. Paratowyd arfarniad rheoliadol llawn am yr effaith a gaiff y Rheoliadau hyn ar gostau busnes ac fe'i gosodwyd yn Llyfrgell Cynulliad Cenedlaethol Cymru. Gellir cael copïau gan yr Asiantaeth Safonau Bwyd, Llawr 11, Southgate House, Wood Street, Caerdydd, CF10 1EW.

(e) make an amendment to regulation 3 of the Animal By-Products (Identification) Regulations 1995 (S.I. 1995/614) in so far as it applies in relation to Wales that is consequential on regulation 3 of these Regulations and regulation 10A(5) of the TSE (Wales) Regulations 2002 (S.I. 2002/1416 (W.142), inserted by regulation 4 of the TSE (Wales) (Amendment) (No.2) Regulations 2005 (S.I. 2005/) (regulation 8); and

(f) revoke the Fresh Meat (Beef Controls) (No. 2) Regulations 1996 (S.I. 1996/2097) in so far as they apply in relation to Wales (regulation 9).

5. A full regulatory appraisal of the effect that these Regulations 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, Wood Street, Cardiff, CF10 1EW.

OFFERYNNAU STATUDOL

2005 Rhif 3051 (Cy.228)

BWYD, CYMRU

Rheoliadau Cynhyrchion Buchol (Cyfyngu ar eu Rhoi ar y Farchnad) (Cymru) 2005

Wedi'u gwneud	*1 Tachwedd 2005*
Yn dod i rym	*7 Tachwedd 2005*

Mae Cynulliad Cenedlaethol Cymru, gan ei fod wedi'i ddynodi(**1**) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(**2**) o ran mesurau ym maes milfeddygaeth i ddiogelu iechyd y cyhoedd, drwy arfer y pwerau a roddwyd gan yr adran honno, ac ar ôl ymgynghori fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor, sy'n pennu egwyddorion cyffredinol a gofynion cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch bwyd(**3**), fel y'i diwygiwyd ddiwethaf gan Reoliad (EC) Rhif 1642/2003 Senedd Ewrop a'r Cyngor(**4**) yn gwneud y Rheoliadau a ganlyn:

Enwi, cymhwyso a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Cynhyrchion Buchol (Cyfyngu ar eu Rhoi ar y Farchnad) (Cymru) 2005, maent yn gymwys o ran Cymru a deuant i rym ar 7 Tachwedd 2005.

Dehongli

2.-(1) Yn y Rheoliadau hyn-

mae "anifail buchol" ("*bovine animal*") yn cynnwys-

(a) byfflo o rywogaeth Bubalus bubalis; a

(b) Bison bison;

ystyr "yr Asiantaeth" ("*the Agency*") yw'r

(**1**) O.S. 2003/1246.

(**2**) 1972 p. 68.

(**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).

(**4**) OJ Rhif l245, 29.9.2003, t.4.

STATUTORY INSTRUMENTS

2005 No. 3051 (W.228)

FOOD, WALES

The Bovine Products (Restriction on Placing on the Market) (Wales) Regulations 2005

Made	*1 November 2005*
Coming into force	*7 November 2005*

The National Assembly for Wales, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures in the veterinary field for the protection of public health, in exercise of the powers conferred by that section, after 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(**3**), as last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council(**4**), makes the following Regulations:

Title, application and commencement

1. The title of these Regulations is the Bovine Products (Restriction on Placing on the Market) (Wales) Regulations 2005, they apply in relation to Wales and come into force on 7 November 2005.

Interpretation

2.-(1) In these Regulations-

"the Agency" ("*yr Asiantaeth*") means the Food Standards Agency;

"animal feed" ("*bwyd anifeiliaid*") and "human food" ("*bwyd i bobl*") have the meanings that they respectively bear in Regulation 999/2001;

(**1**) S.I. 2003/1246.

(**2**) 1972 c. 68.

(**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).

(**4**) OJ No. L245, 29.9.2993, p.4.

Asiantaeth Safonau Bwyd;

ystyr "awdurdod bwyd" ("*food authority*") yw'r corff perthnasol a bennir yn adran 5(1A) o Ddeddf Diogelwch Bwyd 1990(**1**);

ystyr "awdurdod gorfodi perthnasol" ("*relevant enforcement authority*") yw'r awdurdod y mae dyletswydd arno yn rhinwedd rheoliad 7 i weithredu a gorfodi'r Rheoliadau hyn;

ystyr "awdurdod iechyd porthladd" ("*port health authority*"), o ran unrhyw ddosbarth iechyd porthladd a sefydlwyd drwy orchymyn o dan adran 2(3) o Ddeddf Iechyd y Cyhoedd (Rheoli Clefydau) 1984(**2**), yw awdurdod iechyd porthladd ar gyfer y dosbarth hwnnw a sefydlwyd drwy orchymyn o dan adran 2(4) o'r Ddeddf honno;

mae i "bwyd anifeiliaid" a "bwyd i bobl" yr ystyr sydd i "*animal food*" a "human food" yn eu tro yn Rheoliad 999/2001;

dehonglir "deunydd" a "cynnyrch" yn eu tro yn unol a'r ystyron sydd i "materials" a "*products*" ym Mhenderfyniad y Comisiwn.

mae i "gwrteithiau" yr ystyr a roddir i "*fertilisers*" yn erthygl 3.1(k) o Reoliad 999/2001

ystyr "Penderfyniad y Comisiwn" ("*the Commission Decision*") yw Penderfyniad y Comisiwn 2005/598/EC sy'n gwahardd rhoi ar y farchnad gynhyrchion sy'n dod o anifeiliaid buchol a anwyd neu a fagwyd yn y Deyrnas Unedig cyn 1 Awst 1996 at unrhyw ddiben ac sy'n esemptio anifeiliaid o'r fath rhag mesurau rheoli a difodi penodol a geir yn Rheoliad (EC) Rhif 999/2001(**3**);

ystyr "Rheoliad 999/2001" ("*Regulation 999/2001*") yw Rheoliad (EC) Rhif 999/2001 Senedd Ewrop a'r Cyngor sy'n gosod rheolau ar gyfer atal, rheoli a difodi enseffalopathïau spyngffurf trosglwyddadwy penodol(**4**), fel y'i diwygiwyd ddiwethaf gan Reoliad y Comisiwn (EC) Rhif 1292/2005 Senedd Ewrop a'r Cyngor sy'n diwygio Rheoliad (EC) Rhif 999/2001(**5**);

ystyr "rhoi ar y farchnad" ("*place on the market*") yw gwerthu, cyflenwi mewn unrhyw ffordd arall

(**1**) 1990 p.16

(**2**) 1984 p.22.

(**3**) OJ Rhif L204, 5.8.2005, t.22

(**4**) OJ Rhif L147, 31.5.2001, t.1

(**5**) OJ Rhif L163, 23.6.2005, t.1

"authorised officer" ("*swyddog awdurdodedig*"), in relation to the relevant enforcement authority, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under these Regulations and includes-

(a) in relation to premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995(**1**)-

(i) a veterinary surgeon appointed as an authorised officer in relation to those premises in accordance with regulation 8(1) of those Regulations,

(ii) any other person appointed as an inspector in relation to those premises in accordance with regulation 8(2) of those Regulations;

(b) in relation to any premises that are combined premises for the purposes of and are approved under the Meat Products (Hygiene) Regulations 1994(**2**), a person authorised by the Agency in writing, either generally or specially, to act in matters arising under those Regulations; and

(c) in relation to any premises that are combined premises for the purposes of and are approved under the Minced Meat and Meat Preparations (Hygiene) Regulations 1995(**3**), a person-

(i) appointed as an authorised officer in relation to those premises in accordance with regulation 12(2) of those Regulations, or

(ii) authorised to act in relation to those premises in accordance with regulation 12(3) of those Regulations;

"bovine animal" ("*anifail buchol*") includes-

(a) buffalo of the species Bubalus bubalis; and

(b) Bison bison;

"the Commission Decision" ("*Penderfyniad y Comisiwn*") means Commission Decision 2005/598/EC prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1 August 1996 for any purpose and exempting such animals

(1) S.I. 1995/539, amended by S.I. 1995/731, S.I. 1995/1763, S.I. 1995/2148, S.I. 1995/2200, S.I. 1995/3124, S.I. 1995/3189, S.I. 1996/1148, S.I. 1996/2235, S.I. 1997/1729, S.I. 1997/2074, S.I. 2000/656, S.I. 2000/2257 (W.150), S.I. 2001/1508 (W.105), S.I. 2001/1740 (W.123), S.I. 2001/1802 (W.131), S.I. 2001/2198 (W.158), S.I. 2001/2627 (W.216), S.I. 2001/2198 (W.158) S.I. 2002/129 (W.17) and S.I. 2002/1476 (W.148).

(**2**) S.I. 1994/3082, amended by S.I. 1995/539, S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/3205, S.I. 1996/1499, S.I. 1999/683, S.I. 2000/656 , S.I 2000/1885 (W.131), S.I. 2000/2257 (W.150) and S.I. 2001/2198 (W.158) .

(**3**) S.I. 1995/3205, amended by S.I. 1996/3124, S.I. 2000/656, S.I. 2000/1885 (W.131) and S.I. 2000/2257 (W.150).

am dâl neu'n ddi-dâl a storio gyda golwg ar gyflenwi am dâl neu'n ddi-dâl a dehonglir "gafodd ei roi ar y farchnad" ("*placed on the market*") yn unol â hynny;

ystyr "swyddog awdurdodedig" ("*authorised officer*"), o ran yr awdurdod gorfodi perthnasol, yw unrhyw berson (boed yn swyddog i'r awdurdod neu beidio) sydd wedi'i awdurdodi'n ysgrifenedig ganddo, naill ai'n gyffredinol neu'n arbennig, i weithredu mewn materion sy'n codi o dan y Rheoliadau hyn ac mae'n cynnwys,

(a) o ran mangreoedd sydd wedi'u trwyddedu o dan Reoliadau Cig Ffres (Hylendid ac Arolygu) 1995(**1**),

(i) milfeddyg a benodwyd yn swyddog awdurdodedig o ran y mangreoedd hynny yn unol â rheoliad 8(1) o'r Rheoliadau hynny;

(ii) unrhyw berson arall a benodwyd yn swyddog awdurdodedig o ran y mangreoedd hynny yn unol â rheoliad 8(2) o'r Rheoliadau hynny;

(b) o ran unrhyw fangreoedd sy'n fangreoedd wedi eu cyfuno at ddibenion y Rheoliadau Cynhyrchion Cig (Hylendid) 1994(**2**), ac sydd wedi'u cymeradwyo oddi tanynt, person sydd wedi'i awdurdodi'n ysgrifenedig, naill ai'n gyffredinol neu'n arbennig, i weithredu mewn materion sy'n codi o dan y Rheoliadau hynny; ac

(c) o ran unrhyw fangreoedd sy'n fangreoedd wedi eu cyfuno at ddibenion y Rheoliadau Briwgig a Pharatoadau Cig (Hylendid) 1995(**3**), person-

(i) a benodwyd yn swyddog awdurdodedig o ran y mangreoedd hynny yn unol â rheoliad 12(2) o'r Rheoliadau hynny, neu

(ii) a awdurdodwyd i weithredu o ran y mangreoedd hynny yn unol â rheoliad 12(3) o'r Rheoliadau hynny.

(2) Mae unrhyw gyfeiriad yn y Rheoliadau hyn at awdurdod bwyd yn cynnwys cyfeiriad at awdurdod iechyd porthladd, ac yng nghyd-destun cyfeiriad o'r fath mae unrhyw gyfeiriad at ardal awdurdod bwyd yn gyfeiriad at ddosbarth awdurdod iechyd porthladd

(**1**) O.S. 1995/539, a ddiwygiwyd gan O.S. 1995/731, O.S. 1995/1763, O.S. 1995/2148, O.S. 1995/2200, O.S. 1995/3124, O.S. 1995/3189, O.S. 1996/1148, O.S. 1996/2235, O.S. 1997/1729, O.S. 1997/2074, O.S. 2000/656, O.S. 2000/2257 (Cy.150), O.S. 2001/1508 (Cy.105), O.S. 2001/1740 (Cy.123), O.S. 2001/1802 (Cy.131), O.S. 2001/2198 (Cy.158), O.S. 2001/2627 (Cy.216), O.S. 2001/2198 (Cy.158) O.S. 2002/129 (Cy.17) ac O.S. 2002/1476 (Cy.148).

(**2**) O.S. 1994/3082, a ddiwygiwyd gan O.S. 1995/539, O.S. 1995/1763, O.S. 1995/2200, O.S. 1995/3205, O.S. 1996/1499, O.S. 1999/683, O.S. 2000/656, O.S. 2000/1885 (Cy.131), O.S. 2000/2257 (Cy.150) ac O.S. 2001/2198 (Cy.158) .

(**3**) O.S. 1995/3205, a ddiwygiwyd gan O.S. 1996/3124, O.S. 2000/656, O.S. 2000/1885 (Cy.131) ac O.S. 2000/2257 (Cy.150).

from certain control and eradication measures laid down in Regulation (EC) No. 999/2001(**1**);

"fertilisers" ("*gwrteithiau*") has the meaning given to it in Article 3.1(k) of Regulation 999/2001;

"food authority" ("*awdurdod bwyd*") means the relevant body specified in section 5(1A) of the Food Safety Act 1990(**2**);

"material" ("*deunydd*") and "product" (*cynnyrch*") shall respectively be construed in accordance with the meanings that "materials" and "products" bear in the Commission Decision;

"place on the market" ("*rhoi ar y farchnad*") means sell, supply in any other way against payment or free of charge and store with a view to supplying against payment or free of charge and "placed on the market" ("*gafodd ei roi ar y farchnad*") shall be construed accordingly;

"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(**3**), a port health authority for that district constituted by order under section 2(4) of that Act;

"Regulation 999/2001" ("*Rheoliad 999/2001*") means Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(**4**), as last amended by Commission Regulation (EC) No. 1292/2005 of the European Parliament and of the Council amending Regulation (EC) No. 999/2001(**5**); and

"relevant enforcement authority" ("*awdurdod gorfodi perthnasol*") means the authority which by virtue of regulation 7 has the duty of executing and enforcing these Regulations.

(2) Any reference in these Regulations to a food authority includes a reference to a port health authority and in the context of such a reference any reference to a food authority's area includes a reference to a port health authority's district.

(**1**) OJ No. L204, 5.8.2005, p.22.

(**2**) 1990 c. 16.

(**3**) 1984 c.22.

(**4**) OJ No. L147, 31.5.2001, p.1.

(**5**) OJ No. L163, 23.6.2005, p.1.

Gwaharddiad ar werthu cynhyrchion penodol sy'n dod o anifeiliaid buchol hyn

3.-(1) Yn ddarostyngedig i baragraff (2), ni chaiff neb roi ar y farchnad unrhyw gynnyrch-

(a) sy'n cynnwys neu'n ymgorffori unrhyw ddeunydd sy'n dod o anifail buchol a anwyd neu a fagwyd yn y Deyrnas Unedig cyn 1 Awst 1996; a

(b) y bwriedir ei ddefnyddio mewn bwyd i bobl, bwyd anifeiliaid neu wrteithiau.

(2) Nid oes dim ym mharagraff (1) yn rhwystro llaeth sy'n dod o anifail buchol a anwyd neu a fagwyd yn y Deyrnas Unedig cyn 1 Awst 1996 rhag cael ei roi ar y farchnad.

Cymhwyso darpariaethau amrywiol Deddf Diogelwch Bwyd 1990

4. Mae darpariaethau canlynol Deddf Diogelwch Bwyd 1990(**1**) yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiad bod rhaid dehongli unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf honno neu Ran ohoni fel cyfeiriad at y Rheoliadau hyn-

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

(b) adran 21 (amddiffyniad diwydrwydd dyladwy)(**2**) gyda'r addasiadau bod is-adrannau (2) i (4) yn gymwys mewn perthynas â thramgwydd o dan reoliad 6(1) fel y bônt yn gymwys mewn perthynas â thramgwydd o dan adran 14 neu 15 a bod cyfeiriadau yn is-adran (4) at "sale or intended sale" yn cael eu cyfrif yn gyfeiriadau at "placing on the market" fel y'i diffinnir yn Erthygl 3.1(b) o Reoliad 999/2001;

(c) adran 32 (pwerau mynediad);

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

(d) 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 (ch);

(dd) adran 35(1) (cosbi tramgwyddau)(**3**), i'r graddau y mae'n berthnasol i dramgwyddau o dan adran 33(1) fel y'i cymhwysir gan is-baragraff (ch);

(e) adran 35(2) a (3)(**4**) i'r graddau y mae'n ymwneud â thramgwyddau o dan adran 33(2) fel y caiff ei chymhwyso gan is-baragraff (d);

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

(**2**) Diwygiwyd adran 21 gan O.S. 2004/3279.

(**3**) Diwygir adran 35(1) gan Ddeddf Cyfiawnder Troseddol 2003 (2003 p.44), Atodlen 26, paragraff 42, o ddyddiad sydd i'w bennu.

(**4**) Diwygiwyd adran 35(3) gan O.S. 2004/3279.

Prohibition on sale of certain products derived from older bovine animals

3.-(1) Subject to paragraph (2), no person may place on the market any product-

(a) consisting of or incorporating any material derived from a bovine animal born or reared within the United Kingdom before 1 August 1996; and

(b) intended for use in human food, animal feed or fertilisers.

(2) Nothing in paragraph (1) prevents milk derived from a bovine animal born or reared within the United Kingdom before 1 August 1996 from being placed on the market.

Application of various provisions of the Food Safety Act 1990

4. The following provisions of the Food Safety Act 1990(**1**) apply for the purposes of these Regulations with the modification that any reference in those provisions to that Act or Part thereof must be construed as a reference to these Regulations-

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

(b) section 21 (defence of due diligence)(**2**) with the modification that subsections (2) to (4) apply in relation to an offence under regulation 6(1) as they apply in relation to an offence under section 14 or 15 and that in subsection (4)(b) the references to "sale or intended sale" are deemed to be references to "placing on the market" as defined in Article 3.1(b) of Regulation 999/2001;

(c) section 32 (powers of entry);

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

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

(f) section 35(1) (punishment of offences)(**3**), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (d);

(g) section 35(2) and (3)(**4**), in so far as it relates to offences under section 33(2) as applied by sub-paragraph (e);

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

(**2**) Section 21 was amended by S.I. 2004/3279.

(**3**) Section 35(1) is amended by the Criminal Justice Act 2003 (2003 c.44), Schedule 26, paragraph 42, from a date to be appointed.

(**4**) Section 35(3) was amended by S.I. 2004/3279.

(f) adran 36 (tramgwyddau gan gyrff corfforaethol);

(ff) adran 36A (tramgwyddau gan bartneriaethau Albanaidd)(**1**); ac

(g) adran 44 (amddiffyn swyddogion sy'n gweithredu'n ddidwyll gyda'r addasiad bod y cyfeiriadau at "food authority" yn cael eu cyfrif yn gyfeiriadau at yr awdurdod gorfodi perthnasol).

Arolygu cynhyrchion amheus a chymryd meddiant ohonynt

5.-(1) Caiff swyddog awdurdodedig yr awdurdod gorfodi perthnasol arolygu ar bob adeg resymol unrhyw gynnyrch a gafodd ei roi ar y farchnad a bydd paragraffau (2) i (7) yn gymwys pan fo'n ymddangos i'r swyddog awdurdodedig, wrth gyflawni'r arolygiad hwnnw neu am unrhyw achos rhesymol arall, fod unrhyw berson wedi methu â chydymffurfio â rheoliad 3 o ran unrhyw gynnyrch.

(2) Caiff y swyddog awdurdodedig naill ai-

(a) rhoi i'r person sydd â gofal dros y cynnyrch hysbysiad sy'n datgan nad yw'r cynnyrch nac unrhyw gyfran benodedig ohono-

(i) i'w roi ar y farchnad ymhellach i'w ddefnyddio mewn bwyd i bobl, bwyd anifeiliaid na gwrteithiau hyd nes tynnir hysbysiad yn ôl, a

(ii) naill ai i beidio a chael ei symud oddi yno neu i beidio â chael ei symud oddi yno ac eithrio i rywle a bennir yn yr hysbysiad hyd nes tynnir hysbysiad yn ôl; neu

(b) cymryd y cynnyrch i'w feddiant a'i symud oddi yno er mwyn trefnu bod ynad heddwch yn ymdrin â'r cynnyrch hwnnw.

(3) Pan fo'r swyddog awdurdodedig yn arfer y pŵer a roddwyd gan baragraff (2)(a), rhaid i'r swyddog hwnnw, cyn gynted ag y bo'n rhesymol ymarferol a sut bynnag o fewn 21 niwrnod, benderfynu a yw wedi'i fodloni neu heb ei fodloni y cydymffurfiwyd â rheoliad 3 mewn perthynas â'r cynnyrch ac-

(a) os yw wedi'i fodloni felly, tynnu'r hysbysiad yn ôl ar unwaith; a

(b) os nad yw wedi'i fodloni felly, cymryd y cynnyrch i'w feddiant a'i symud oddi yno er mwyn trefnu bod ynad heddwch yn ymdrin â'r cynnyrch hwnnw.

(4) Pan fo swyddog awdurdodedig yn arfer y pŵer a roddwyd gan baragraff (2)(b) neu (3)(b), rhaid iddo hysbysu'r person sydd â gofal dros y cynnyrch o'i fwriad i drefnu bod ynad heddwch yn ymdrin â'r cynnyrch hwnnw ac-

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

(i) section 36A (offences by Scottish partnerships)(**1**); and

(j) section 44 (protection of officers acting in good faith) with the modification that the references to "food authority" are deemed to be references to the relevant enforcement authority).

Inspection and seizure of suspected products

5.-(1) An authorised officer of the relevant enforcement authority may at all reasonable times inspect any product that has been placed on the market and paragraphs (2) to (7) will apply where, on such an inspection or for any other reasonable cause, it appears to the authorised officer that any person has failed to comply with regulation 3 in relation to any product.

(2) The authorised officer may either-

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

(i) is not to be further placed on the market for use in human food, animal feed or fertilisers, and

(ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the product 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 paragraph (2)(a), that officer must, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he or she is satisfied that regulation 3 has been complied with in relation to the product and-

(a) if so satisfied, forthwith withdraw the notice; and

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

(4) Where an authorised officer exercises the power conferred by paragraph (2)(b) or (3)(b), he or she must inform the person in charge of the product of his or her intention to have it dealt with by a justice of the peace and-

(**1**) Mewnosodwyd adran 36A gan Ddeddf Safonau Bwyd 1999 (1999 p.28), Atodlen 5, paragraff 16.

(**1**) Section 36A was inserted by the Food Standards Act 1999 (1999 c.28), Schedule 5, paragraph 16.

(a) bydd gan unrhyw berson a allai fod yn agored o dan reoliad 3 i erlyniad mewn cysylltiad â'r cynnyrch, os bydd y person hwnnw yn dod gerbron yr ynad heddwch y mae'n dod i'w ran i ymdrin â'r cynnyrch, hawl i gael gwrandawiad ac i alw tystion; a

(b) caniateir, ond nid oes rhaid, i'r ynad heddwch hwnnw fod yn aelod o'r llys y cyhuddir unrhyw berson ger ei fron o dramgwydd o dan yr adran honno mewn perthynas â'r cynnyrch hwnnw.

(5) Os yw'n ymddangos i ynad heddwch, ar sail y dystiolaeth y mae'n ei hystyried ei bod yn briodol o dan yr amgylchiadau, fod methiant i gydymffurfio â rheoliad 3 wedi bod mewn cysylltiad ag unrhyw gynnyrch y mae'n dod i'w ran i ymdrin ag ef o dan y rheoliad hwn, rhaid iddo gondemnio'r cynnyrch a gorchymyn-

(a) i'r cynnyrch gael ei ddistrywio neu ei waredu yn y fath fodd ag i'w atal rhag cael ei ddefnyddio ar gyfer ei fwyta gan bobl; a

(b) i unrhyw dreuliau a dynnwyd yn rhesymol mewn cysylltiad â'r distrywio neu'r gwaredu gael eu talu gan berchennog y cynnyrch.

(6) Os tynnir hysbysiad o dan baragraff (2)(a) yn ôl, neu os bydd yr ynad heddwch, y mae'n dod i'w ran i ymdrin ag unrhyw gynnyrch o dan y rheoliad hwn, yn gwrthod ei gondemnio, rhaid i'r awdurdod gorfodi perthnasol dalu iawndal i berchennog y cynnyrch am unrhyw ddibrisiant yn ei werth sy'n ganlyniad i'r camau a gymerwyd gan y swyddog awdurdodedig.

(7) Rhaid i unrhyw gwestiwn sy'n destun dadl ynglyn â hawl i gael unrhyw iawndal neu ynglyn â swm unrhyw iawndal sy'n daladwy o dan baragraff (6) gael ei benderfynu drwy gymrodeddu.

Tramgwyddau a chosbau

6.-(1) Bydd unrhyw berson sy'n mynd yn groes i reoliad 3 neu'n mynd yn groes, gan wybod hynny, i ofynion hysbysiad o dan baragraff (2)(a) o reoliad 5 yn euog o dramgwydd.

(2) Bydd unrhyw berson sy'n euog o dramgwydd o dan y rheoliad hwn yn agored-

(a) o'i gollfarnu'n ddiannod, i ddirwy heb fod yn uwch na'r uchafswm statudol neu i garchariad am gyfnod nad yw'n hwy na thri mis neu i'r ddau; neu

(b) o'i gollfarnu ar dditiad, i ddirwy neu i garchariad am gyfnod nad yw'n hwy na dwy flynedd, neu i'r ddau.

(3) Ni chaniateir cychwyn erlyniad am dramgwydd sy'n cynnwys mynd yn groes i reoliad 3 neu fynd yn groes, gan wybod hynny, i ofynion hysbysiad a roddwyd o dan baragraff (2)(a) o reoliad 5 ar ôl i'r naill neu'r llall o'r cyfnodau canlynol ddod i ben-

(a) any person who under regulation 3 might be liable to a prosecution in respect of the product will, if that person attends before the justice of the peace by whom the product 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 charged with an offence under that section in relation to that product.

(5) If it appears to a justice of the peace, on the basis of such evidence as he or she considers appropriate in the circumstances, that there has been a failure to comply with regulation 3 in relation to any product falling to be dealt with by him or her under this regulation, he or she must condemn the product and order-

(a) the product 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 product.

(6) If a notice under paragraph (2)(a) is withdrawn, or the justice of the peace by whom any product falls to be dealt with under this regulation refuses to condemn it, the relevant enforcement authority must compensate the owner of the product 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 paragraph (6) must be determined by arbitration.

Offences and penalties

6.-(1) Any person who contravenes regulation 3 or knowingly contravenes the requirements of a notice under paragraph (2)(a) of regulation 5 will be guilty of an offence.

(2) Any person guilty of an offence under this regulation will be liable-

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(3) No prosecution for an offence consisting of a contravention of regulation 3 or of knowingly contravening the requirements of a notice given under paragraph 2(a) of regulation 5 may be begun after the expiry of-

(a) tair blynedd o ddyddiad cyflawni'r tramgwydd; neu

(b) blwyddyn o ddyddiad ei ddarganfod gan yr erlynydd,

p'un bynnag yw'r cynharaf.

Gorfodi

7. Rhaid i'r Rheoliadau hyn gael eu gweithredu a'u gorfodi-

(a) gan yr Asiantaeth

(i) mewn mangreoedd sydd wedi'u trwyddedu o dan Reoliadau Cig Ffres (Hylendid ac Arolygu) 1995,

(ii) mewn mangreoedd sy'n fangreoedd cyfunol at ddibenion Rheoliadau Cig Ffres (Hylendid ac Arolygu) 1994 ac a gymeradwyir oddi tanynt, a

(iii) mewn mangreoedd sy'n fangreoedd cyfunol at ddibenion Rheoliadau Briwgig a Pharatoadau Cig (Hylendid) 1995 ac a gymeradwyir oddi tanynt; a

(b) mewn unrhyw fangre arall, gan yr awdurdod bwyd y mae'r fangre yn ei ardal.

Diwygio Rheoliadau Sgil-gynhyrchion Anifeiliaid (Adnabod) 1995

8. Yn lle paragraff (3) o reoliad 3 (ystyr sgil-gynnyrch anifail) o Reoliadau Sgil-gynhyrchion Anifeiliaid (Adnabod) 1995(**1**) i'r graddau y mae'n gymwys o ran Cymru rhodder y paragraff canlynol-

"(3) In these Regulations the definition of "animal by-product" includes-

(a) any product subject to the prohibition imposed by regulation 3 of the Bovine Products (Restriction on Placing on the Market) (Wales) Regulations 2005; and

(b) any bovine carcase or body part in respect of which a direction for disposal has been given under regulation 10A(5) of the TSE (Wales) Regulations 2002(**2**)".

Dirymiadau

9. Mae Rheoliadau Cig Ffres (Rheolaethau ar Gig Eidion) (Rhif 2) 1996(**3**) wedi'u dirymu.

(**1**) O.S. 1995/614, a ddiwygiwyd gan O.S. 1995/1955, O.S. 1996/3124, O.S. 1997/2073, O.S. 2000/656, O.S. 2002/1472 (Cy.146), ac O.S. 2003/1849 (Cy.199).

(**2**) O.S. 2002/1461 (Cy.141), a ddiwygiwyd gan O.S. 2003/2756 (Cy.267), O.S. 2004/2735 (Cy. 242), O.S. 2005/1392 (Cy.106) ac O.S. 2005/2902 (Cy.205).

(**3**) O.S. 1996/2097 a ddiwygiwyd gan O.S. 1996/2522, O.S. 2000/656 ac O.S. 2000/3388 (Cy.225).

(a) three years from the commission of the offence; or

(b) one year from its discovery by the prosecutor,

whichever is the earlier.

Enforcement

7. These Regulations must be executed and enforced-

(a) by the Agency in-

(i) premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995,

(ii) premises that are combined premises for the purposes of and are approved under the Meat Products (Hygiene) Regulations 1994, and

(iii) premises that are combined premises for the purposes of and are approved under the Minced Meat and Meat Preparations (Hygiene) Regulations 1995; and

(b) in any other premises, by the food authority in whose area the premises are situated.

Amendment of the Animal By-Products (Identification) Regulations 1995

8. For paragraph (3) of regulation 3 (meaning of animal by-product) of the Animal By-Products (Identification) Regulations 1995(**1**) so far as it applies in relation to Wales there is substituted the following paragraph-

"(3) In these Regulations the definition of "animal by-product" includes-

(a) any product subject to the prohibition imposed by regulation 3 of the Bovine Products (Restriction on Placing on the Market) (Wales) Regulations 2005; and

(b) any bovine carcase or body part in respect of which a direction for disposal has been given under regulation 10A(5) of the TSE (Wales) Regulations 2002(**2**).".

Revocations

9. The Fresh Meat (Beef Controls) (No. 2) Regulations 1996(**3**) are revoked.

(**1**) S.I. 1995/614, amended by S.I. 1995/1955, S.I. 1996/3124, S.I. 1997/2073, S.I. 2000/656, S.I. 2002/1472 (W.146), and S.I. 2003/1849 (W.199).

(**2**) S.I. 2002/1416 (W.141), amended by S.I. 2003/2756 (W.267), S.I. 2004/2735 (W.242), S.I. 2005/1392 (W.106) and S.I. 2005/2902 (W.205).

(**3**) S.I. 1996/2097, amended by S.I. 1996/2522, S.I. 2000/656 and S.I. 2000/3388 (W.225).

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

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

1 Tachwedd 2005

1 November 2005

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(**1**) 1998 p.38.

(**1**) 1998 c.38.

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

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2005 No. 3051 (W.228)

BWYD, CYMRU

FOOD, WALES

Rheoliadau Cynhyrchion Buchol (Cyfyngu ar eu Rhoi ar y Farchnad) (Cymru) 2005

The Bovine Products (Restriction on Placing on the Market) (Wales) Regulations 2005

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