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W E L S H S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 911 (W. 207)**

**EXITING THE EUROPEAN  
UNION, WALES**

**FOOD, WALES**

**The Food and Drink (Transitional  
Provisions) (Wales) (EU Exit)  
Regulations 2021**

**EXPLANATORY NOTE**

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

These Regulations are made in exercise of the powers conferred on the Welsh Ministers by paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations insert transitional provisions into subordinate legislation applying in relation to Wales in the field of food and drink standards and labelling and relate to amendments to retained EU law made by other EU Exit statutory instruments.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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<i>Sift requirements satisfied</i>		<i>12 July 2021</i>
<i>Made</i>		<i>28 July 2021</i>
<i>Laid</i>	<i>before</i>	<i>Senedd</i>
<i>Cymru</i>		<i>30 July 2021</i>
<i>Coming into force</i>		<i>23 August 2021</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018(1).

The requirements of paragraph 4(2) of Schedule 7 to that Act (relating to the appropriate Senedd Cymru(2) procedure for these Regulations) have been satisfied.

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

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- (1) 2018 c. 16. There are amendments to paragraph 1 of Schedule 2 which are not relevant to these Regulations. Paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).
- (2) The reference in the European Union (Withdrawal) Act 2018 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

matters of food safety<sup>(1)</sup> there has been open and transparent public consultation during the preparation of these Regulations.

#### **Title and commencement**

**1.**—(1) The title of these Regulations is the Food and Drink (Transitional Provisions) (Wales) (EU Exit) Regulations 2021.

(2) These Regulations come into force on 23 August 2021.

#### **The Food Information (Wales) Regulations 2014**

**2.** In the Food Information (Wales) Regulations 2014<sup>(2)</sup>, after regulation 14 insert—

##### **“Transitional provisions: withdrawal from the EU**

**15.**—(1) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with Article 9(1)(h), and Article 9(1)(i) as read with Article 26(3), if—

- (a) the improvement notice would relate to a product that was placed on the market on or before 30 September 2022, and
- (b) the matter would not have constituted a failure to comply with those provisions as they had effect immediately before IP completion day.

(2) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with Article 7(1) or Article 36(2)(a) or (b) if—

- (a) the improvement notice would relate to a specified product that was placed on the market before IP completion day, and
- (b) the labelling of the specified product would not have constituted a failure to comply with those provisions as they had effect immediately before IP completion day.

(3) Products to which paragraph (1) or (2) applies may continue to be marketed until stocks are exhausted.

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(1) EUR 2002/178, to which there are amendments not relevant to these Regulations.

(2) S.I. 2014/2303 (W. 227), to which there are amendments not relevant to these Regulations.

(4) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with Article 7(1) or Article 36(2)(a) or (b) if—

- (a) the improvement notice would relate to a specified product placed on the market within the period beginning with IP completion day and ending on 31 December 2023, and
- (b) the labelling of the specified product would not have constituted a failure to comply with those provisions as they had effect immediately before IP completion day.

(5) Wine products to which paragraph (4) applies may continue to be marketed until stocks are exhausted.

(6) Other products to which paragraph (4) applies may continue to be marketed until 31 December 2023.

(7) In this regulation—

“improvement notice” (*“hysbysiad gwella”*) means an improvement notice pursuant to regulation 12(1);

“specified product” (*“cynnyrch penodedig”*) means an individually identifiable product, including a wine product, bearing an indication listed in point 5, 6 or 7 of Annex 10 to Commission Implementing Regulation (EU) No 668/2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs<sup>(1)</sup> as that Regulation had effect immediately before IP completion day;

“wine product” (*“cynnyrch gwin”*) means a product to which Part 2 of Annex 7 to Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products<sup>(2)</sup> as that Regulation had effect immediately before IP completion day applies.”

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(1) OJ No L 179, 19.6.2012, p. 36.

(2) OJ No L 347, 20.12.2013, p. 671, as last amended by Regulation (EU) No 2020/2220 (OJ No L 437, 28.12.2020, p. 1).

### **The Country of Origin of Certain Meats (Wales) Regulations 2015**

**3.** In the Country of Origin of Certain Meats (Wales) Regulations 2015(1), after regulation 6 insert—

#### **“Transitional provision: withdrawal from the EU**

**7.—(1)** An authorised officer must not serve on a person an improvement notice relating to a failure to comply with the second subparagraph of Article 5(1), Article 6 or Article 7 if—

- (a) the improvement notice would relate to a product that was placed on the market before IP completion day; and
- (b) the matter constituting the alleged failure to comply would not have constituted a failure to comply with those provisions as they had effect immediately before IP completion day.

**(2)** An authorised officer must not serve on a person an improvement notice relating to a failure to comply with the second subparagraph of Article 5(1), Article 6 or Article 7 if—

- (a) the improvement notice would relate to a product placed on the market on or before 30 September 2022;
- (b) the product bears one of the indications provided for in those provisions as they had effect immediately before IP completion day; and
- (c) the use of the indication would not constitute a failure to comply with those provisions as they had effect immediately before IP completion day.

**(3)** In this regulation, “improvement notice” (*“hysbysiad gwella”*) means an improvement notice pursuant to regulation 6(1) as read with Part 1 of the Schedule to these Regulations.”

*Lynne Neagle*

Deputy Minister for Mental Health and Wellbeing  
under authority of the Minister for Health and Social  
Services, one of the Welsh Ministers  
28 July 2021

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(1) S.I. 2015/1519 (W. 177), to which there are amendments not relevant to these Regulations.