



**Cynulliad Cenedlaethol Cymru  
The National Assembly for Wales**

**ADRODDIAD GAN Y PWYLLGOR DEDDFAU      LEGISLATION COMMITTEE REPORT**

**The Food Irradiation Provisions (Wales) Regulations 2001**

**Background**

These Regulations make amendments to two statutory instruments concerned with, respectively, the control of food irradiation and the labelling of irradiated food. These amendments are made in consequence of EU Directives.

Regulations to the same effect were made in England on 21 August 2000 and came into force on 20 September (S.I. 2000/2254).

**Standing Order 11.5**

The England Regulations have been considered by the Parliamentary Joint Committee on Statutory Instruments and have been reported in the Committee's 32<sup>nd</sup> Report of the 1999/2000 Session. The relevant extract from that Report is annexed.

Of the points raised by the Joint Committee only that in paragraph 11 of their Report has been taken into account in the Wales Regulations. Accordingly, the Committee is obliged to record that all other items of defective drafting reported by the Joint Committee similarly constitute defective drafting in the Wales Regulations. Additionally, the point identified in paragraph 9 of the Joint Committee Report is a matter which would need to be reported as requiring explanation.

The Committee accepts, however, that all of these matters would be appropriate for correction by means of a Memorandum of Corrections under SO 22.13. With reference to

the point raised in paragraph 9 of the Joint Committee Report, the Committee is of the view that this could be dealt with either by provision in the Explanatory Note or by amendment of Regulation 9(c). It is also to be noted that some of the corrections will necessitate consequential revisions in the Explanatory Note.

Thus, subject to a Memorandum of Corrections dealing with all of these points being duly laid, the Committee is content to report that there are no matters to which it needs to invite the Assembly to pay special attention. If no such Memorandum is laid, however, the Committee will, subject to any representations which the relevant Minister may wish to make under SO 11.4, be obliged to invite the Assembly to pay special attention to the points identified in the Annex to this Report.

### **General Observations**

Minor typographical points have been identified as follows –

- Explanatory Note, paragraph 6(e) – “bottle” should be “bottles”.
- Subject heading – “FOOD” omitted from actual SI.
- Coming into force – date omitted from heading.

**Mick Bates A.M.**

Chair, Legislation Committee

27<sup>th</sup> February 2001

## **ANNEX**

### **Extract from 32<sup>nd</sup> Report (Session 1999/2000) of the Joint Committee on Statutory Instruments**

#### **THE FOOD IRRADIATION PROVISIONS (ENGLAND) REGULATIONS 2000 (S.I. 2000/2254)**

“4. The Committee draws the special attention of both Houses to these Regulations on the grounds that they are defectively drafted and require elucidation.

5. These Regulations, which are made under the Food Safety Act 1990, give effect in England to Directives 1999/2/EC and 1999/3/EC by amending, inter alia, the Food (Control of Irradiation) Regulations 1990. Regulation 3 inserts into the 1990 Regulations a definition of "the Directives", but that expression is not used in those Regulations. The Committee asked the Department of Health to explain the inclusion of this definition.

6. The Department, in its memorandum printed in Appendix 3, confirms that the definition is not used in the 1990 Regulations and was included in error. The Committee accordingly reports regulation 3 for defective drafting, as acknowledged by the Department.

7. Regulation 7 of the 1990 Regulations treats compliance in Northern Ireland with Northern Irish legislation corresponding to the 1990 Regulations as compliance with the 1990 Regulations. Regulation 7(b) of these Regulations amends regulation 7 of the 1990 Regulations by inserting after "Northern Ireland" the words "Scotland or Wales, as the case may be". The Committee asked the Department to explain the purpose and effect of the words "as the case may be" in the first place where they are inserted. The Department, in its memorandum, accepts that the words add nothing, and the Committee accordingly reports regulation 7(b) for defective drafting, as acknowledged by the Department.

8. Regulation 9(b) inserts new sub-paragraph (ff) in paragraph 1 of Part I of Schedule I to the 1990 Regulations. Sub-paragraph (ff) refers to an international Code of Practice. The Committee asked the Department to explain where copies of the Code may be obtained and why this information was not included in the Explanatory Note to the Regulations, as required by paragraph 2.48 of Statutory Instrument Practice. In its memorandum, the Department indicates where copies of the Code may be obtained and apologises for not including this information in the Explanatory Note. The Committee accordingly reports the

Regulations for failing to comply with paragraph 2.48 of Statutory Instrument Practice, as acknowledged by the Department.

9. Regulation 9(c) inserts a new paragraph (gg) in paragraph 1 of Part I of Schedule 1 to the 1990 Regulations. Paragraph (gg) requires applicants for irradiation licences to send to the licensing authority particulars of "details of the person who has been designated to be responsible for compliance" with certain conditions. The Committee asked the Department to explain what details are required to be provided. In its memorandum, the Department explains that the details include the designated person's identity, his qualifications and his position within the applicant's management structure. The Committee considers that paragraph (gg) requires the elucidation provided by the Department's memorandum, and therefore reports regulation 9(c) as requiring the elucidation provided.

10. Regulation 12 substitutes a new paragraph 1(1) in Part III of Schedule 1 to the 1990 Regulations. New paragraph 1(1)(a) permits the variation of an irradiation licence only if the licence as varied will apply to "the same one of the seven permitted descriptions of food" as it previously did. Under the 1990 Regulations a licence may apply to more than one permitted description of food. The Committee therefore asked the Department to explain what was meant by the underlined words. In its memorandum, the Department acknowledges that a licence may in principle apply to more than one permitted description of food, but states that only one licence relating to a single food irradiation facility has in fact been issued and that, for control purposes, a single licence would in practice be issued for each permitted description of food. The amendment was drafted on this basis. It accepts, however, that the amendment should have reflected the strict legal position, and the Committee accordingly reports regulation 12 for defective drafting, as acknowledged by the Department.

11. [Not relevant]

12. Regulation 15 substitutes a new Schedule 2 to the 1990 Regulations. Schedule 2 supplements regulation 4 of the 1990 Regulations, which (as amended) prohibits the importation into England of irradiated food for the purpose of sale unless, among other things, it is of a recognised appropriate origin. In the case of food other than herbs and spices irradiated in a country or territory outside the European Community, paragraph 3(1) of Schedule 2 requires recognition of appropriate origin to be effected by the publication of

a notice in the London Gazette. Paragraph 3(2) defines "origin" in relation to a country or territory specified in a notice, as origin in that country or territory. Paragraph 3(3) then attaches conditions to be satisfied before recognition of appropriate origin may be effected under paragraph 3(1) "in respect of any country". The Committee asked the Department whether the references in paragraph 3(3) to a "country" are intended to include a "territory". The Department, in its memorandum, confirms that this is the intention and that paragraph 3(3) should have included references to a "territory". The Committee accordingly reports regulation 15 for defective drafting, as acknowledged by the Department.

13. The Department undertakes to make the necessary amendments to these Regulations at the first available opportunity. The Committee notes this, but, as mentioned above, it considers that the Department should amend the error in regulation 14(a) quickly."