

2015 No. 1519 (W. 177)

FOOD, WALES

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to enforce, in Wales, certain provisions of Commission Implementing Regulation (EU) No 1337/2013 laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry (OJ No L 335, 14.12.13, p 19) (“the Commission Regulation”).

Regulation 3 sets out that each food authority in its area is the competent authority for the purposes of Article 5(1) and (2) of the Commission Regulation. Regulation 4 makes food authorities and port health authorities responsible for enforcement of the Regulations.

Regulation 5 requires food business operators to keep records for 12 months from the end of the calendar year to which each record relates.

Regulation 6 and the Schedule apply certain provisions of the Food Safety Act 1990 (1990 c. 16) with modifications. This includes the application (with modifications) of section 10(1), enabling an improvement notice to be served requiring compliance with specified provisions of the Commission Regulation or with regulation 5. The provisions, as applied, make the failure to comply with an improvement notice an offence.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Food Standards Agency at Food Standards Agency Wales,

11th Floor, Southgate House, Wood Street, Cardiff,
CF10 1EW or from the Agency's website at
www.food.gov.uk/wales.

2015 No. 1519 (W. 177)

FOOD, WALES

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

Made 13 July 2015

Laid before the National Assembly for Wales
16 July 2015

Coming into force 10 August 2015

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 6(4)(1), 16(1)(2), 17(1)(3), 26(1), (2) and (3)(4), 31(1) and 48(1)(5) of the Food Safety Act 1990(6), and by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(7).

The Welsh Ministers have been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of

-
- (1) Section 6(4) was amended by section 31 of, and paragraph 6 of Schedule 9 to, the Deregulation and Contracting Out Act 1994 (c. 40), section 40(1) of, and paragraph 10(1) and (3) of Schedule 5 and Schedule 6 to, the Food Standards Act 1999 (c. 28) (“the 1999 Act”) and S.I. 2002/794.
- (2) Section 16(1) was amended by section 40(1) of, and paragraphs 7 and 8 of Schedule 5 to, the 1999 Act.
- (3) Section 17(1) was amended by section 40(1) of, and paragraphs 8 and 12(a) of Schedule 5 to, the 1999 Act, and S.I. 2011/1043.
- (4) Section 26(3) was partially repealed by section 40(4) of, and Schedule 6 to, the 1999 Act.
- (5) Sections 31(1) and 48(1) were amended by section 40(1) of, and paragraph 8 of Schedule 5 to, the 1999 Act.
- (6) 1990 c. 16. 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 section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (7) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006, and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.

food(1) and in relation to the common agricultural policy(2).

The following 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 reference to Commission Implementing Regulation (EU) No 1337/2013 laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry(3) to be construed as a reference to that Regulation as amended from time to time.

So far as the following 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) of that Act(4).

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.

Title, commencement and application

1.—(1) The title of these Regulations is the Country of Origin of Certain Meats (Wales) Regulations 2015.

(2) These Regulations come into force on 10 August 2015 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

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

“authorised officer” (“*swyddog awdurdodedig*”) means a person authorised by an enforcement

-
- (1) S.I. 2005/1971. By virtue of section 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006, functions conferred on the National Assembly for Wales by this designation are transferred to the Welsh Ministers.
- (2) S.I. 2010/2690.
- (3) OJ No L 335, 14.12.13, p 19.
- (4) Section 48(4A) was inserted by section 40(1) of, and paragraph 21 of Schedule 5 to, the 1999 Act.
- (5) OJ No L 31, 1.2.02, p 1, last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 27.6.14, p 1).

authority (within the meaning of the Act) for the purposes of these Regulations;

“Commission Regulation” (*“Rheoliad y Comisiwn”*) means Commission Implementing Regulation (EU) No 1337/2013 laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry;

“food authority” (*“awdurdod bwyd”*) means a county council or a county borough council;

“food business operator” (*“gweithredydd y busnes bwyd”*) has the meaning given in point 3 of Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council.

(2) Except as otherwise provided, any reference in these Regulations to an Article is a reference to an Article of the Commission Regulation.

(3) Any reference in these Regulations to an Article of the Commission Regulation is a reference to that Article as amended from time to time.

Competent authority

3. Each food authority in its area is the competent authority for the purposes of—

- (a) the third sub-paragraph of Article 5(1) (labelling of meat where specified rearing period not attained in any member State or third country); and
- (b) Article 5(2) (labelling of meat where “origin” indicated on the label).

Enforcement authorities

4.—(1) These Regulations are enforced by each food authority within its area and by each port health authority within its district.

(2) In this regulation “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 Diseases) Act 1984(1), the port health authority for that district constituted by order under section 2(4) of that Act.

Records

5.—(1) A food business operator must keep a record of information under the identification and registration system required by Article 3 (traceability).

(1) 1984 c. 22.

(2) A food business operator must retain each record for a period of 12 months from the end of the calendar year to which the record relates.

Application of provisions of the Act

6.—(1) Section 10(1) and (2) of the Act (improvement notices) applies with the modification (in the case of section 10(1)) specified in Part 1 of the Schedule to these Regulations for the purposes of—

- (a) enabling an improvement notice to be served on a person requiring the person to comply with—
 - (i) any of Articles 3 to 6 and 8; or
 - (ii) regulation 5; and
- (b) making the failure to comply with a notice referred to in sub-paragraph (a) an offence.

(2) Section 32 of the Act (powers of entry)(1) applies, with the modifications specified in Part 2 of the Schedule to these Regulations, for the purposes of enabling an authorised officer—

- (a) to exercise a power of entry to ascertain whether there is, or has been, any contravention of any of Articles 3 to 6 and 8;
- (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of such a provision; and
- (c) when exercising a power of entry under the provisions of section 32 as applied by this paragraph, to exercise the powers in subsections (5) and (6) relating to records.

(3) Section 37(1) and (6) of the Act (appeals) applies with the modifications specified in Part 3 of the Schedule to these Regulations for the purpose of enabling a decision to serve a notice referred to in paragraph (1)(a) to be appealed.

(4) Section 39 of the Act (appeals against improvement notices) applies with the modifications specified in Part 4 of the Schedule to these Regulations for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph (1)(a).

(5) The provisions of the Act specified in the first column of the table in Part 5 of the Schedule to these Regulations apply with the modifications specified in the second column of that table for the purposes of these Regulations.

(1) Section 32(5) and (6) were amended by section 70 of, and paragraph 18 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c. 16).

Vaughan Gething

Deputy Minister for Health, one of the Welsh
Ministers

13 July 2015

Modification of provisions of the Act

PART 1

Modification of section 10(1)

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 any of Articles 3 to 6 and 8 of Commission Implementing Regulation (EU) No 1337/2013 laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry, or regulation 5 of the Country of Origin of Certain Meats (Wales) Regulations 2015, 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 with the relevant provision;
- (b) specify the matters which constitute the person’s failure so to 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 measures that are at least equivalent to them, within such period as may be specified in the notice. □.

PART 2

Modification of section 32(1)

2. In section 32(1) (powers of entry)—

- (a) in paragraph (a), for “this Act, or of regulations or orders made under it” substitute “any of Articles 3 to 6 or 8 of Commission Implementing Regulation (EU) No 1337/2013 laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin

or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry”; and

- (b) omit paragraph (c).

PART 3

Modification of section 37(1) and (6)

- 3.—(1) For section 37(1) (appeals) substitute—

□(1) Any person who is aggrieved by a decision of an authorised officer of an enforcement authority to serve an improvement notice under section 10(1), as applied and modified by regulation 6(1) of, and Part 1 of the Schedule to, the Country of Origin of Certain Meats (Wales) Regulations 2015, may appeal to a magistrates’ court.□.

- (2) In section 37(6)—

- (a) for “(3) or (4)” substitute “(1)”; and
- (b) omit “or to the sheriff”.

PART 4

Modification of section 39(1) and (3)

- 4.—(1) For section 39(1) (appeals against improvement notices) substitute—

□(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 6(1) of, and Part 1 of the Schedule to, the Country of Origin of Certain Meats (Wales) Regulations 2015, the magistrates’ court may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.□.

- (2) In section 39(3), omit “for want of prosecution”.

PART 5

Modification of other provisions of the Act

<i>Provision of the Act</i>	<i>Modifications</i>
Section 2(1) (extended meaning of “sale” etc.)	<p>In subsection (1), for “this Act” substitute “the Country of Origin of Certain Meats (Wales) Regulations 2015”.</p> <p>In subsection (2), for “This Act” substitute “The Country of Origin of Certain Meats (Wales) Regulations 2015”.</p>
Section 3 (presumptions that food intended for human consumption)	<p>In subsection (1), for “this Act” substitute “the Country of Origin of Certain Meats (Wales) Regulations 2015”.</p>
Section 20 (offences due to fault of another person)	<p>For “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 6(1) of the Country of Origin of Certain Meats (Wales) Regulations 2015,”.</p>
Section 21(2) (defence of due diligence)	<p>In subsection (1), for “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 6(1) of the Country of Origin of Certain Meats (Wales) Regulations 2015,”.</p> <p>Omit subsections (2) to (6).</p>
Section 29 (procurement of samples)	<p>In paragraph (b)(ii), after “under section 32 below”, insert “including under section 32 as applied and modified by regulation 6(2) of, and Part 2 of the Schedule</p>

-
- (1) Section 2(1) was amended by section 40(1) of, and paragraph 8 of Schedule 5 to, the 1999 Act.
- (2) Section 21(2) was amended by S.I. 2004/3279.

<i>Provision of the Act</i>	<i>Modifications</i>
	to, the Country of Origin of Certain Meats (Wales) Regulations 2015”.
Section 30(8) (evidence of certificates given by a food analyst or examiner)	For “this Act” substitute “the Country of Origin of Certain Meats (Wales) Regulations 2015”.
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place where it occurs) substitute “the Country of Origin of Certain Meats (Wales) Regulations 2015”.
Section 35(1)(1) and (2) (punishment of offences)	In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 6(5) of, and Part 5 of the Schedule to, the Country of Origin of Certain Meats (Wales) Regulations 2015,”. After subsection (1), insert— <p style="margin-left: 40px;">□(1A) A person guilty of an offence under section 10(2), as applied by regulation 6(1) of the Country of Origin of Certain Meats (Wales) Regulations 2015, shall be liable, on summary conviction, to a fine.□.</p> In subsection (2), for “any other offence under this Act” substitute “an offence under section 33(2), as applied by regulation 6(5) of, and Part 5 of the Schedule to, the Country of Origin of Certain Meats (Wales)

(1) Section 35(1) is amended by section 280(2) of, and paragraph 42 of Schedule 26 to, the Criminal Justice Act 2003 (c. 44), from a date to be appointed.

<i>Provision of the Act</i>	<i>Modifications</i>
Section 36 (offences by body corporate)	Regulations 2015,”. In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 6(1) of the Country of Origin of Certain Meats (Wales) Regulations 2015,”.
Section 36A(1) (offences by Scottish partnerships)	For “this Act” substitute “section 10(2), as applied by regulation 6(1) of the Country of Origin of Certain Meats (Wales) Regulations 2015,”.
Section 44 (protection of officers acting in good faith)	For “this Act” (in each place where it occurs) substitute “the Country of Origin of Certain Meats (Wales) Regulations 2015”.

(1) Section 36A was inserted by section 40(1) of, and paragraph 16 of Schedule 5 to, the 1999 Act.