

**2009 No. 2705 (W.224)**

**FOOD, WALES**

**The Food Labelling (Nutrition  
Information) (Wales) Regulations  
2009**

**EXPLANATORY NOTE**

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

**1.** These Regulations further amend the Food Labelling Regulations 1996 (“the principal Regulations”) in so far as they apply in relation to Wales. The principal Regulations extend to the whole of Great Britain.

**2.** These Regulations implement in Wales Commission Directive 2008/100/EC amending Council Directive 90/496/EEC on nutrition labelling for foodstuffs as regards recommended daily allowances, energy conversion factors and definitions (OJ No. L285, 29.10.2008, p.9) (“the Commission Directive”).

**3.** The Regulations implement the Commission Directive by amending the principal Regulations so as to—

- (a) include a definition of “fibre” (*regulation 2(2)*);
- (b) amend the lists of vitamins and minerals in respect of which nutrition claims may be made, both as regards the substances included and the recommended daily allowances (*regulation 2(3) and Schedules 1 & 2*);
- (c) provide conversion factors for calculating the energy value of fibre and erythritol (*regulation 2(4)*); and
- (d) provide for a transitional period for the phasing in of the new provisions (*regulation 3*).

**4.** A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Food Standards Agency, 11<sup>th</sup> Floor, Southgate House, Cardiff CF10 1EW.

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**The Food Labelling (Nutrition  
Information) (Wales) Regulations  
2009**

*Made* 4 October 2009

*Laid before the National Assembly for Wales*

6 October 2009

*Coming into force* 30 October 2009

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990<sup>(1)</sup>, and now vested in them<sup>(2)</sup>.

In accordance with section 48(4A) of that Act, they have had regard to relevant advice given by the Food Standards Agency.

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<sup>(3)</sup>, there has been open and

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- (1) 1990 c. 16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28), (“the 1999Act”). Section 48 was also amended by S.I. 2004/2990. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c.40), Schedule 6 to the 1999 Act and S.I. 2004/2990.
- (2) Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were transferred to Welsh Ministers by section 162 of, and Schedule 11, paragraph 30 to the Government of Wales Act 2006 (c.32).
- (3) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p3).

transparent public consultation during the preparation and evaluation of these Regulations.

### **Title, application and commencement**

1. These Regulations are called the Food Labelling (Nutrition Information) (Wales) Regulations 2009, apply in relation to Wales and come into force on 30 October 2009.

### **Amendment of the Food Labelling Regulations 1996**

2.—(1) The Food Labelling Regulations 1996<sup>(1)</sup> are amended in accordance with paragraphs (2) to (4) and regulation 3.

(2) In regulation 2(1) (interpretation) —

- (a) in the definition of Directive 90/496 after the words “Commission Directive 2003/120/EC” insert “and Commission Directive 2008/100/EC”; and
- (b) after the definition of “fat” insert the following —

““fibre”, in the context of nutrition labelling, means carbohydrate polymers with three or more monomeric units, which are neither digested nor absorbed in the human small intestine and belong to the following categories:

- edible carbohydrate polymers naturally occurring in the food as consumed;
- edible carbohydrate polymers which have been obtained from food raw material by physical, enzymatic or chemical means and which have a beneficial physiological effect demonstrated by generally accepted scientific evidence; or
- edible synthetic carbohydrate polymers which have a beneficial physiological effect demonstrated by generally accepted scientific evidence;”.

(3) In Schedule 6, Part II—

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(1) S.I. 1996/1499, as last amended by S.I. 2008/1268 (W.128). The definition of Directive 90/496 and paragraph 5 of Part I of Schedule 7 were both previously amended in relation to Wales by S.I. 2004/2558 (W.229).

- (a) as Table A (vitamins in respect of which claims may be made) substitute the entries set out in Schedule 1 to these Regulations; and
  - (b) as Table B (minerals in respect of which claims may be made) substitute the entries set out in Schedule 2 to these Regulations.
- (4) In Schedule 7, Part I, paragraph 5 —
- (a) at the end of sub-paragraph (g) for the full stop substitute a semi-colon; and
  - (b) after sub-paragraph (g) add the following sub-paragraphs—
    - “(h) 1 gram of fibre is deemed to contribute 8kJ (2 kcal);
    - (i) 1 gram of erythritol is deemed to contribute 0kJ (0kcal).”

**Transitional provision**

3. In regulation 50 (transitional provision), after paragraph (15) add the following as paragraph (16) —

“(16) In any proceedings for an offence under regulation 44(1)(b) it is a defence to prove that —

- (a) the food concerned—
  - (i) if sold, was sold before the 31 October 2012, and
  - (ii) if advertised for sale, was advertised for sale before 31 October 2012 but not on or after that date; and
- (b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendments made by regulation 2 of the Food Labelling (Nutrition Information) (Wales) Regulations 2009<sup>(1)</sup> had not been in operation when the food was sold.”.

*Gwenda Thomas*

Deputy Minister for Social Services, under authority of the Minister for Health and Social Services, one of the Welsh Ministers

04 October 2009

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(1) S.I. 2009/2705 (W.224)

# SCHEDULE 1

Regulation 2(3)(a)

Table of entries to be substituted in Table A (vitamins in respect of which claims may be made) in Schedule 6, Part II, to the Food Labelling Regulations 1996

<i>Column 1</i> <i>Vitamin</i>	<i>Column 2</i> <i>Recommended Daily Allowance</i>
Vitamin A	800 µg
Vitamin D	5 µg
Vitamin E	12 mg
Vitamin K	75 µg
Vitamin C	80 mg
Thiamin	1.1 mg
Riboflavin	1.4 mg
Niacin	16 mg
Vitamin B6	1.4 mg
Folic acid	200 µg
Vitamin B12	2.5 µg
Biotin	50 µg
Pantothenic acid	6 mg

## SCHEDULE 2

Regulation 2(3)(b)

Table of entries to be substituted in Table B (minerals in respect of which claims may be made) in Schedule 6, Part II, to the Food Labelling Regulations 1996

<i>Column 1</i> <i>Vitamin</i>	<i>Column 2</i> <i>Recommended Daily Allowance</i>
Potassium	200 mg
Chloride	800 mg
Calcium	800 mg
Phosphorus	700 mg
Magnesium	375 mg
Iron	14 mg
Zinc	10 mg
Copper	1 mg
Manganese	2 mg
Fluoride	3.5 mg
Selenium	55 µg
Chromium	40 µg
Molybdenum	50 µg
Iodine	150 µg