OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2025 Rhif 395 (Cy. 79)

2025 No. 395 (W. 79)

BWYD, CYMRU

FOOD, WALES

IECHYD Y CYHOEDD, CYMRU

PUBLIC HEALTH, WALES

Rheoliadau Bwyd (Hyrwyddo a Chyflwyno) (Cymru) 2025

The Food (Promotion and Presentation) (Wales) Regulations 2025

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn wedi eu gwneud gan Weinidogion Cymru drwy arfer eu pwerau o dan Ddeddf Diogelwch Bwyd 1990 (p. 16) a Deddf Gorfodi Rheoleiddiol a Sancsiynau 2008 (p. 13). Maent yn darparu ar gyfer cyfyngu ar hyrwyddo a chyflwyno bwydydd a diodydd penodol sy'n llai iach.

Mae Rhan 1 o'r Rheoliadau hyn yn cynnwys darpariaethau dehongli cyffredinol (rheoliad 2).

Mae Rhan 2 o'r Rheoliadau hyn yn diffinio'r bwydydd a'r diodydd ("bwyd penodedig") (rheoliad 3 ac Atodlen 1) a'r busnesau ("busnes cymhwysol") (rheoliad 4) y mae'r Rheoliadau hyn yn gymwys iddynt.

Mae Rhan 3 o'r Rheoliadau hyn yn nodi cyfyngiadau ar hyrwyddo a chyflwyno bwyd penodedig. Mae rheoliad 5 yn gwahardd busnes cymhwysol rhag cynnig hyrwyddiadau pris penodol ar gyfer bwyd penodedig. Mae rheoliad 6 yn gwahardd busnes cymhwysol rhag cyflwyno bwyd penodedig mewn lleoliadau penodol mewn siop. Mae rheoliad 7 yn gwahardd busnes cymhwysol rhag cyflwyno bwyd penodedig mewn lleoliadau penodol o farchnadle ar-lein.

Mae Rhan 4 o'r Rheoliadau hyn yn gwahardd busnes cymhwysol rhag cynnig hyrwyddiadau ail-lenwi am ddim ar gyfer diodydd penodol (rheoliad 8).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Welsh Ministers in exercise of their powers under the Food Safety Act 1990 (c. 16) and the Regulatory Enforcement and Sanctions Act 2008 (c. 13). They provide for restrictions on the promotion and presentation of certain foods and drinks that are less healthy.

Part 1 of these Regulations includes general interpretation provisions (regulation 2).

Part 2 of these Regulations defines the food and drink ("specified food") (regulation 3 and Schedule 1) and the businesses ("qualifying business") (regulation 4) to which these Regulations apply.

Part 3 of these Regulations sets out restrictions on the promotion and presentation of specified food. Regulation 5 prohibits a qualifying business from offering certain price promotions on specified food. Regulation 6 prohibits a qualifying business from presenting specified food in certain locations in a store. Regulation 7 prohibits a qualifying business from presenting specified food in certain locations of an online marketplace.

Part 4 of these Regulations prohibits a qualifying business from offering free refill promotions on certain drinks (regulation 8).

Mae Rhan 5 o'r Rheoliadau hyn yn ymwneud â gorfodi'r cyfyngiadau. Mae rheoliad 9 yn ei gwneud yn ofynnol i bob awdurdod bwyd orfodi a gweithredu'r Rheoliadau hyn o fewn ei ardal. Mae rheoliad 10 yn galluogi awdurdod bwyd i gyflwyno hysbysiad gwella i berson pan fo ganddo seiliau rhesymol dros gredu bod y person yn methu â chydymffurfio ag un neu ragor o'r cyfyngiadau yn rheoliadau 5 i 8.

Part 5 of these Regulations is concerned with the enforcement of the restrictions. Regulation 9 requires each food authority to enforce and execute these Regulations within its area. Regulation 10 enables a food authority to serve an improvement notice on a person where it has reasonable grounds for believing that the person is failing to comply with one or more of the restrictions in regulations 5 to 8.

Mae Rhan 6 o'r Rheoliadau hyn yn creu trosedd pan fo person yn methu â chydymffurfio â hysbysiad gwella (rheoliad 11). Gall hyn arwain at ddirwy ddiderfyn. Mae Rhan 6 hefyd yn galluogi awdurdod bwyd i osod cosb ariannol benodedig o £2,500 yn ddewis arall fel sancsiwn sifil ar gyfer gorfodi trosedd o dan reoliad 11 ac yn gwneud darpariaeth ar gyfer y weithdrefn sy'n ymwneud â chosbau ariannol penodedig (rheoliad 12 ac Atodlen 2). Pan fo cosb ariannol benodedig wedi ei gosod, mae hyn yn atal euogfarn droseddol am y drosedd mewn cysylltiad â'r weithred neu'r anweithred sy'n arwain at y gosb.

Part 6 of these Regulations creates an offence where a person fails to comply with an improvement notice (regulation 11). This may result in an unlimited fine. Part 6 also enables a food authority to impose a fixed monetary penalty of £2,500 as a civil sanction alternative for the enforcement of an offence under regulation 11 and makes provision for the procedure relating to fixed monetary penalties (regulation 12 and Schedule 2). Where a fixed monetary penalty is imposed, this precludes a criminal conviction for the offence in respect of the act or omission giving rise to the penalty.

Mae Rhan 7 o'r Rheoliadau hyn yn ymdrin â materion atodol a gweinyddol. Mae rheoliadau 13 a 14 yn ei gwneud yn ofynnol i awdurdod bwyd gyhoeddi canllawiau ynghylch ei ddefnydd o'r pŵer i osod cosbau ariannol penodedig ac adroddiadau am y camau gorfodi y mae wedi eu cymryd o dan y Rheoliadau hyn. Mae rheoliad 15 yn ei gwneud yn ofynnol i Weinidogion Cymru adolygu'r ddarpariaeth reoleiddiol sydd wedi ei chynnwys yn y Rheoliadau hyn ac i gyhoeddi adroddiad sy'n nodi'r casgliadau cyn diwedd y cyfnod o 5 mlynedd sy'n dechrau â'r diwrnod y daw'r Rheoliadau hyn i rym ac ar ysbeidiau heb fod yn hwy na 5 mlynedd wedi hynny.

Part 7 of these Regulations deals with supplementary and administrative matters. Regulations 13 and 14 require a food authority to publish both guidance about its use of the power to impose fixed monetary penalties and reports about the enforcement action it has taken under these Regulations. Regulation 15 requires the Welsh Ministers to review the regulatory provision contained in these Regulations and to publish a report setting out the conclusions before the end of the period of 5 years beginning with the day on which these Regulations come into force and at intervals not exceeding 5 years after that.

Mae Rhan 8 o'r Rheoliadau hyn yn cymhwyso, gydag addasiadau, wahanol ddarpariaethau yn Neddf Diogelwch Bwyd 1990 (rheoliad 16 ac Atodlen 3).

Part 8 of these Regulations applies, with modifications, various provisions of the Food Safety Act 1990 (regulation 16 and Schedule 3).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac mae wedi ei gyhoeddi ar www.llyw.cymru.

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 Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales.

2025 Rhif 395 (Cy. 79)

BWYD, CYMRU

IECHYD Y CYHOEDD, CYMRU

Rheoliadau Bwyd (Hyrwyddo a Chyflwyno) (Cymru) 2025

Gwnaed	*26 Mawrth 2025*
Yn dod i rym	*26 Mawrth 2026*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan adrannau 6(4)(a), 16(1)(e) ac (f), 26(3) ac 48(1) o Ddeddf Diogelwch Bwyd 1990(**1**) ("Deddf 1990") ac sydd bellach wedi eu breinio ynddynt hwy(**2**), ac adran 62(2) o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008(**3**) ("Deddf 2008").

(**1**) 1990 p. 16. Diwygiwyd adran 6(4)(a) gan baragraff 6 o Atodlen 9 i Ddeddf Dadreoleiddio a Chontractio Allan 1994 (p. 40); paragraff 10(1) a (3)(a) a (b) o Atodlen 5, ac Atodlen 6, i Ddeddf Safonau Bwyd 1999 (p. 28) ("Deddf 1999"); ac Atodlen 2 i O.S. 2002/794. Diwygiwyd adrannau 16(1) ac 48(1) gan baragraff 8 o Atodlen 5 i Ddeddf 1999. Diwygiwyd adran 26(3) gan Atodlen 6 i Ddeddf 1999.

(**2**) Rhoddwyd y swyddogaethau hynny, a oedd gynt yn arferadwy gan "the Ministers", i'r Ysgrifennydd Gwladol yn unol â pharagraff 8 o Atodlen 5 i Ddeddf 1999. Trosglwyddwyd y swyddogaethau hynny, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) fel y'i darllenir gydag adran 40(3) o Ddeddf 1999. Mae'r swyddogaethau hynny bellach yn arferadwy gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) ("Deddf 2006") a pharagraff 30 o Atodlen 11 iddi.

(**3**) 2008 p. 13. Diwygiwyd adran 39(4) gan O.S. 2015/664. Diwygiwyd adran 36(2) gan Ran 3 o Ddeddf Menter 2016 (p. 12). Diffinnir "prescribed" yn adran 71(1) o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008 (p. 13).

2025 No. 395 (W. 79)

FOOD, WALES

PUBLIC HEALTH, WALES

The Food (Promotion and Presentation) (Wales) Regulations 2025

Made	*26 March 2025*
Coming into force	*26 March 2026*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 6(4)(a), 16(1)(e) and (f), 26(3) and 48(1) of the Food Safety Act 1990(**1**) ("the 1990 Act") and now vested in them(**2**), and section 62(2) of the Regulatory Enforcement and Sanctions Act 2008(**3**) ("the 2008 Act").

(**1**) 1990 c. 16. Section 6(4)(a) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40); paragraph 10(1) and (3)(a) and (b) of Schedule 5, and Schedule 6 to the Food Standards Act 1999 (c. 28) ("the 1999 Act"); and Schedule 2 to S.I. 2002/794. Sections 16(1) and 48(1) were amended by paragraph 8 of Schedule 5 to the 1999 Act. Section 26(3) was amended by Schedule 6 to the 1999 Act.

(**2**) Those functions, formerly exercisable by "the Ministers", were conferred on the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Those functions, 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) as read with section 40(3) of the 1999 Act. Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32) ("the 2006 Act").

(**3**) 2008 c. 13. Section 39(4) was amended by S.I. 2015/664. Section 36(2) was amended by Part 3 of the Enterprise Act 2016 (c. 12). "Prescribed" is defined in section 71(1) of the Regulatory Enforcement and Sanctions Act 2008 (c. 13).

Mae Gweinidogion Cymru wedi rhoi sylw i gyngor perthnasol a roddwyd gan yr Asiantaeth Safonau Bwyd yn unol ag adran 48(4A) o Ddeddf 1990(**1**).

Cynhaliwyd ymgynghoriad fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor, dyddiedig 28 Ionawr 2002, sy'n gosod egwyddorion a gofynion cyffredinol cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch bwyd(**2**).

Mae Gweinidogion Cymru wedi ymgynghori yn unol ag adrannau 59(3) a 60(1) o Ddeddf 2008(**3**).

Mae Gweinidogion Cymru wedi eu bodloni, yn unol ag adran 66 o Ddeddf 2008, y bydd awdurdodau bwyd (sy'n rheoleiddwyr at ddiben y Rheoliadau hyn) yn gweithredu yn unol â'r egwyddorion y cyfeirir atynt yn adran 5(2) o'r Ddeddf honno wrth arfer pŵer a roddir gan y Rheoliadau hyn.

Gosodwyd drafft o'r Rheoliadau hyn gerbron Senedd Cymru yn unol ag adran 62(3) o Ddeddf 2008(**4**), ac fe'i cymeradwywyd ganddi drwy benderfyniad.

The Welsh Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of the 1990 Act(**1**).

There has been consultation as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 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(**2**).

The Welsh Ministers have consulted in accordance with sections 59(3) and 60(1) of the 2008 Act(**3**).

The Welsh Ministers are satisfied in accordance with section 66 of the 2008 Act that food authorities (who are regulators for the purpose of these Regulations) will act in accordance with the principles referred to in section 5(2) of that Act in exercising a power conferred by these Regulations.

A draft of these Regulations was laid before Senedd Cymru in accordance with section 62(3) of the 2008 Act(**4**), and approved by resolution of Senedd Cymru.

Rhan 1

Cyflwyniad

Enwi, rhychwant, cymhwyso a dod i rym

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Bwyd (Hyrwyddo a Chyflwyno) (Cymru) 2025.

(2) Mae'r Rheoliadau hyn—

(a) yn rhychwantu Cymru a Lloegr;

(b) yn gymwys o ran Cymru, ond nid o ran y dyfroedd tiriogaethol sy'n gyfagos i Gymru.

(3) Daw'r Rheoliadau hyn i rym ar 26 Mawrth 2026.

Part 1

Introduction

Title, extent, application and coming into force

1.—(1) The title of these Regulations is the Food (Promotion and Presentation) (Wales) Regulations 2025.

(2) These Regulations—

(a) extend to England and Wales;

(b) apply in relation to Wales, but not in relation to the territorial waters adjacent to Wales.

(3) These Regulations come into force on 26 March 2026.

(**1**) Mewnosodwyd adran 48(4A) o Ddeddf Diogelwch Bwyd 1990 (p. 16) gan baragraff 21 o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (p. 28).

(**2**) EUR 2002/178, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(**3**) Mae adran 71(1) o Ddeddf 2008 yn darparu mai ystyr "relevant authority", mewn perthynas â darpariaeth a wneir o dan Ran 3 neu yn rhinwedd y Rhan honno gan Weinidogion Cymru, yw Gweinidogion Cymru.

(**4**) Mae'r cyfeiriad yn adran 62(3) o Ddeddf 2008 at Gynulliad Cenedlaethol Cymru bellach yn cael effaith fel cyfeiriad at Senedd Cymru, yn rhinwedd adran 150A(2) o Ddeddf 2006.

(**1**) Section 48(4A) of the Food Safety Act 1990 (c. 16) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999 (c. 28).

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

(**3**) Section 71(1) of the 2008 Act provides that "relevant authority" means, in relation to provision made under or by virtue of Part 3 by the Welsh Ministers, the Welsh Ministers.

(**4**) The reference in section 62(3) of the 2008 Act to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the 2006 Act.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

mae i "awdurdod bwyd" yr ystyr a roddir i "food authority" gan adran 5(1A) o'r Ddeddf(**1**);

mae i "busnes cymhwysol" ("*qualifying business*") yr ystyr a roddir gan reoliad 4;

mae i "bwyd" yr un ystyr â "food" yn adran 1(1) o'r Ddeddf(**2**);

mae i "bwyd Atodlen 1" ("*Schedule 1 food*") yr ystyr a roddir gan reoliad 3(2);

mae i "bwyd penodedig" ("*specified food*") yr ystyr a roddir gan reoliad 3;

ystyr "y Canllawiau Technegol ar gyfer Proffilio Maethynnau" ("*the Nutrient Profiling Technical Guidance*") yw'r canllawiau a gyhoeddwyd gan yr Ysgrifennydd Gwladol ar 14 Ionawr 2011 ynghylch cymhwyso Model Proffilio Maethynnau 2004-2005 (**3**);

ystyr "cynnig arbennig perthnasol" ("*relevant special offer*") yw cynnig o bris gostyngol am eitemau lluosog a hyrwyddir fel rhai y bwriedir iddynt gael eu defnyddio gyda'i gilydd fel un pryd o fwyd neu fel rhan o un pryd o fwyd, gan un person neu gan ddau neu ragor o bobl gyda'i gilydd (megis cynigion "bargen fwyd" neu "bargen bwyta i mewn i ddau");

mae i "defnyddiwr" yr ystyr a roddir i "consumer" gan adran 2(3) o Ddeddf Hawliau Defnyddwyr 2015(**4**);

ystyr "y Ddeddf" ("*the Act*") yw Deddf Diogelwch Bwyd 1990;

ystyr "eitem fwyd wedi ei rhagbecynnu" ("*prepacked food item*") yw eitem y cyfeirir ati yn Erthygl 2(2)(e) o Reoliad (EU) Rhif 1169/2011 Senedd Ewrop a'r Cyngor, dyddiedig 25 Hydref 2011, ar ddarparu gwybodaeth am fwyd i ddefnyddwyr(**5**);

Interpretation

2.—(1) In these Regulations—

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

"consumer" ("*defnyddiwr*") has the meaning given by section 2(3) of the Consumer Rights Act 2015(**1**);

"food" ("*bwyd*") has the same meaning as in section 1(1) of the Act(**2**);

"food authority" ("*awdurdod bwyd*") has the meaning given by section 5(1A) of the Act(**3**);

"online marketplace" ("*marchnadle ar-lein*") means any software (including a website, part of a website, or an application) that is used to offer the qualifying business's products for sale to consumers;

"prepacked food item" ("*eitem fwyd wedi ei rhagbecynnu*") means an item referred to in Article 2(2)(e) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers(**4**);

"qualifying business" ("*busnes cymhwysol*") has the meaning given by regulation 4;

"qualifying person" ("*person cymhwysol*") means a person acting in the course of carrying on a qualifying business;

"relevant special offer" ("*cynnig arbennig perthnasol*") means an offer of a discounted price for multiple items promoted as intended to be consumed together as, or as part of, a single meal by one person or by two or more people together (such as "meal deal" or "dine in for two" offers);

"Schedule 1 food" ("*bwyd Atodlen 1*") has the meaning given by regulation 3(2);

"specified food" ("*bwyd penodedig*") has the meaning given by regulation 3;

(**1**) Mewnosodwyd adran 5(1A) o Ddeddf 1990 gan baragraff 16(1) o Atodlen 9 i Ddeddf Llywodraeth Leol (Cymru) 1994 (p. 19).

(**2**) Mae'r diffiniad o "food" yn adran 1(1) o Ddeddf 1990 yn cyfeirio at Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor, sy'n gosod egwyddorion a gofynion cyffredinol cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau mewn perthynas â materion diogelwch bwyd ("Rheoliad (EC) Rhif 178/2002"). Mae Erthygl 2 o Reoliad (EC) Rhif 178/2002 yn diffinio "food" at ddibenion y Rheoliad hwnnw.

(**3**) Gellir dod o hyd i gopi electronig ar https://www.gov.uk/government/publications/the-nutrient-profiling-model. Gellir cael copïau caled ar gais oddi wrth: Iechyd y Boblogaeth, Y Grŵp Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

(**4**) 2015 p. 15.

(**5**) EUR 2011/1169, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(**1**) 2015 c. 15.

(**2**) The definition of "food" in section 1(1) of the 1990 Act refers to 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 ("Regulation (EC) No 178/2002"). Article 2 of Regulation (EC) No 178/2002 defines "food" for the purposes of that Regulation.

(**3**) Section 5(1A) of the 1990 Act was inserted by paragraph 16(1) of Schedule 9 to the Local Government (Wales) Act 1994 (c. 19).

(**4**) EUR 2011/1169, to which there are amendments not relevant to these Regulations.

ystyr "marchnadle ar-lein" ("*online marketplace*") yw unrhyw feddalwedd (gan gynnwys gwefan, rhan o wefan, neu raglen) a ddefnyddir i gynnig cynhyrchion y busnes cymhwysol ar werth i ddefnyddwyr;

ystyr "person cymhwysol" ("*qualifying person*") yw person sy'n gweithredu wrth gynnal busnes cymhwysol.

(2) At ddibenion y Rheoliadau hyn, mae person cymhwysol yn cynnig cynhyrchion busnes cymhwysol ar werth ar farchnadle ar-lein os yw'n penderfynu (naill ai ar ran y busnes cymhwysol neu ar ran busnes arall) fod y cynnyrch i'w gynnig ar werth, ac yn penderfynu ar bris y cynnyrch hwnnw, ni waeth pwy sy'n ymgymryd ar ran y busnes cymhwysol—

(a) i gael taliad gan y prynwr, neu

(b) i weithredu'r marchnadle ar-lein fel arall.

"the Nutrient Profiling Technical Guidance" ("*y Canllawiau Technegol ar gyfer Proffilio Maethynnau*") means the guidelines published by the Secretary of State on 14 January 2011 about the application of the 2004-2005 Nutrient Profiling Model(**1**).

(2) For the purposes of these Regulations, a qualifying person offers a qualifying business's products for sale on an online marketplace if they determine (whether on behalf of the qualifying business or on behalf of another business) that the product is to be offered for sale and its price, irrespective of who undertakes on behalf of the qualifying business—

(a) to obtain payment from the purchaser, or

(b) to otherwise operate the online marketplace.

Rhan 2

Ystyr bwyd penodedig a busnes cymhwysol

Part 2

Meaning of specified food and qualifying business

Bwyd penodedig

3.—(1) At ddibenion y Rheoliadau hyn, "bwyd penodedig" yw bwyd sydd wedi ei gynnwys mewn eitem fwyd wedi ei rhagbecynnu—

(a) sy'n fwyd Atodlen 1,

(b) sy'n llai iach (fel y'i diffinnir ym mharagraff (5)), ac

(c) nad yw'n fwyd y mae paragraff (6) (gwerthiant bwyd elusennol) yn gymwys iddo.

(2) At ddibenion y Rheoliadau hyn, ystyr "bwyd Atodlen 1" yw bwyd sy'n dod o fewn categori a bennir yn Atodlen 1 i'r Rheoliadau hyn (categorïau o fwyd penodedig).

(3) Pan fo eitem fwyd wedi ei rhagbecynnu yn cynnwys mwy nag un math o fwyd, mae'r holl fwyd a gynhwysir yn yr eitem i'w drin at ddibenion paragraff (1)(a) fel bwyd Atodlen 1 pan fyddai un (neu ragor) o'r mathau o fwyd a gynhwysir yn yr eitem, ar ei ben ei hun, yn fwyd Atodlen 1.

(4) Pan fo cynnyrch yn cynnwys eitemau lluosog, y mae un (neu ragor) ohonynt yn eitem fwyd wedi ei rhagbecynnu sy'n cynnwys bwyd penodedig, mae'r cynnyrch cyfan i'w drin fel bwyd penodedig.

Specified food

3.—(1) For the purposes of these Regulations, "specified food" is food contained in a prepacked food item which—

(a) is Schedule 1 food,

(b) is less healthy (as defined in paragraph (5)), and

(c) is not food to which paragraph (6) (charity food sales) applies.

(2) For the purposes of these Regulations, "Schedule 1 food" means food falling within a category specified in Schedule 1 to these Regulations (categories of specified food).

(3) Where a prepacked food item contains more than one type of food, all of the food contained in the item is to be treated for the purposes of paragraph (1)(a) as Schedule 1 food where one (or more) of the types of food contained in the item would, on its own, be Schedule 1 food.

(4) Where a product contains multiple items, of which one (or more) is a prepacked food item containing specified food, the entire product is to be treated as specified food.

(**1**) An electronic copy can be found at https://www.gov.uk/government/publications/the-nutrient-profiling-model. Hard copies can obtained by request to Population Health, Health and Social Services Group, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

(5) At ddibenion y rheoliad hwn—

(a) mae bwyd nad yw'n ddiod yn llai iach os pennir sgôr o 4 pwynt neu ragor iddo yn unol â'r Canllawiau Technegol ar gyfer Proffilio Maethynnau;

(b) mae diod yn llai iach os pennir sgôr o 1 pwynt neu ragor iddi yn unol â'r Canllawiau Technegol ar gyfer Proffilio Maethynnau.

(6) Mae'r paragraff hwn yn gymwys i fwyd—

(a) a ddarperir gan elusen, wrth gynnal ei gweithgareddau elusennol, am ddim neu am bris sy'n llai na chost darparu'r bwyd hwnnw, neu

(b) a gynigir ar werth gan neu ar ran elusen er mwyn codi arian ar gyfer ei gweithgareddau elusennol mewn un digwyddiad.

(7) At ddibenion paragraff (6)—

(a) mae i "elusen" yr ystyr a roddir i "charity" gan adran 1 o Ddeddf Elusennau 2011(**1**);

(b) ystyr "gweithgaredd elusennol" yw gweithgaredd a gyflawnir at ddiben elusennol, heblaw at ddiben codi arian yn bennaf;

(c) mae i "diben elusennol" yr ystyr a roddir i "charitable purpose" gan adran 2(1) o Ddeddf Elusennau 2011.

(5) For the purposes of this regulation—

(a) food that is not a drink is less healthy if it scores 4 or more points in accordance with the Nutrient Profiling Technical Guidance;

(b) a drink is less healthy if it scores 1 or more points in accordance with the Nutrient Profiling Technical Guidance.

(6) This paragraph applies to food which is—

(a) provided by a charity, in the course of its charitable activities, free or for a price which is less than the cost of providing that food, or

(b) offered for sale by or on behalf of a charity to raise funds for its charitable activities at a single event.

(7) For the purposes of paragraph (6)—

(a) "charity" has the meaning given by section 1 of the Charities Act 2011(**1**);

(b) "charitable activity" means an activity carried out for a charitable purpose, other than primarily for the purpose of raising funds;

(c) "charitable purpose" has the meaning given by section 2(1) of the Charities Act 2011.

Busnesau cymhwysol

4.—(1) At ddibenion rheoliadau 5 (cyfyngu ar hyrwyddiadau pris), 6 (cyfyngu ar gyflwyno mewn siop) a 7 (cyfyngu ar gyflwyno ar-lein) mae busnes yn "busnes cymhwysol"—

(a) os yw person, wrth gynnal y busnes, yn cynnig ar werth i ddefnyddwyr (naill ai mewn siop neu ar farchnadle ar-lein) unrhyw eitem fwyd wedi ei rhagbecynnu,

(b) os oedd gan y busnes, ar ddiwrnod cyntaf y flwyddyn ariannol pan ddigwyddodd unrhyw gynnig i werthu o'r fath, 50 o gyflogeion neu ragor, ac

(c) os nad yw'r busnes—

(i) yn gartref gofal;

(ii) yn sefydliad addysgol;

(iii) yn fwyty.

Qualifying businesses

4.—(1) For the purposes of regulations 5 (price promotion restriction), 6 (in store presentation restriction) and 7 (online presentation restriction) a business is a "qualifying business" if—

(a) a person offers, in the course of carrying on the business, any prepacked food item for sale (whether in store or on an online marketplace) to consumers,

(b) on the first day of the financial year during which any such offer for sale took place, the business had 50 or more employees, and

(c) the business is not—

(i) a care home;

(ii) an educational institution;

(iii) a restaurant.

(**1**) 2011 p. 25.

(**1**) 2011 c. 25.

(2) At ddibenion rheoliad 8 (cyfyngu ar hyrwyddiadau ail-lenwadau diodydd) mae busnes yn "busnes cymhwysol"—

(a) os yw person, wrth gynnal y busnes, yn cynnig ar werth i ddefnyddwyr (mewn siop) unrhyw ddiod y mae rheoliad 8 yn gymwys iddi,

(b) os oedd gan y busnes, ar ddiwrnod cyntaf y flwyddyn ariannol pan ddigwyddodd unrhyw gynnig i werthu o'r fath, 50 o gyflogeion neu ragor, ac

(c) os nad yw'r busnes—

(i) yn gartref gofal;

(ii) yn sefydliad addysgol.

(3) At ddibenion penderfynu faint o gyflogeion sydd gan fusnes, mae busnes a gynhelir yn unol â chytundeb masnachfraint i'w drin fel rhan o fusnes y breiniwr ac nid fel busnes ar wahân a gynhelir gan y deiliad braint.

(4) Mae "cytundeb masnachfraint" yn bodoli—

(a) pan fo un ymgymeriad ("y deiliad braint") ac ymgymeriad arall ("y breiniwr") yn cytuno bod y deiliad braint yn cynnal gweithgaredd busnes sy'n cynnwys gwerthu neu ddosbarthu bwyd ("y busnes masnachfraint"), a

(b) pan fo paragraffau (5) a (6) yn gymwys i'r busnes masnachfraint.

(5) Mae'r paragraff hwn yn gymwys os yw'r breiniwr wedi cytuno ar y canlynol—

(a) y bwyd a ddarperir yn y busnes masnachfraint,

(b) golwg mewnol neu allanol y fangre y mae'r busnes masnachfraint yn cael ei gynnal ynddi, ac

(c) y model busnes a ddefnyddir ar gyfer gweithredu'r busnes masnachfraint.

(6) Mae'r paragraff hwn yn gymwys os yw'r materion y cyfeirir atynt ym mharagraff (5) yn debyg i faterion ymgymeriadau eraill y mae'r breiniwr wedi ymrwymo i drefniadau contractiol cymaradwy mewn cysylltiad â hwy.

(7) At ddibenion y rheoliad hwn—

(a) cyflogeion busnes yw'r personau sydd wedi eu cyflogi at ddibenion y busnes;

(b) ystyr "cartref gofal" yw man yng Nghymru lle y darperir gwasanaeth cartref gofal, o fewn ystyr Rhan 1 o Ddeddf Rheoleiddio ac

(2) For the purposes of regulation 8 (drink refill promotion restriction) a business is a "qualifying business" if—

(a) a person offers, in the course of carrying on the business, any drink to which regulation 8 applies for sale (in store) to consumers,

(b) on the first day of the financial year during which any such offer for sale took place, the business had 50 or more employees, and

(c) the business is not—

(i) a care home;

(ii) an educational institution.

(3) For the purposes of determining how many employees a business has, a business that is carried on pursuant to a franchise agreement is to be treated as part of the business of the franchisor and not as a separate business carried on by the franchisee.

(4) A "franchise agreement" exists where—

(a) one undertaking ("the franchisee") and another undertaking ("the franchisor") agree that the franchisee carries on a business activity which includes the sale or distribution of food ("the franchise business"), and

(b) paragraphs (5) and (6) apply to the franchise business.

(5) This paragraph applies if the following are agreed by the franchisor—

(a) the food provided in the franchise business,

(b) the internal or external appearance of the premises where the franchise business is carried on, and

(c) the business model used for the operation of the franchise business.

(6) This paragraph applies if the matters referenced in paragraph (5) are similar to those of other undertakings in respect of which the franchisor has entered into comparable contractual arrangements.

(7) For the purposes of this regulation—

(a) the employees of a business are the persons who are employed for the purposes of the business;

(b) "care home" means a place in Wales at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of

Arolygu Gofal Cymdeithasol (Cymru) 2016(**1**), yn gyfan gwbl neu'n bennaf i bersonau sy'n 18 oed neu'n hŷn ac nad yw'n darparu bwyd ond i breswylwyr y cartref gofal hwnnw ac sy'n codi tâl am y gwasanaeth hwnnw fel rhan o gost y llety;

(c) ystyr "contract cyflogaeth" yw contract gwasanaeth, sydd naill ai'n ddatganedig neu'n oblygedig, ac (os yw'n ddatganedig) naill ai ar lafar neu mewn ysgrifen;

(d) ystyr "sefydliad addysgol" yw sefydliad sy'n darparu addysg yn unig pan fo'r addysg honno yn cael ei darparu'n gyfan gwbl neu'n bennaf i ddisgyblion sydd o dan 18 oed;

(e) ystyr "cyflogai" yw unigolyn sydd wedi ymrwymo i gontract cyflogaeth neu sy'n gweithio o dan gontract o'r fath, pa un a yw'r contract hwnnw ar gyfer cyflogaeth llawnamser neu ran-amser;

(f) ystyr "bwyty" yw busnes y mae ei fangre yn cael ei defnyddio yn bennaf ar gyfer paratoi neu werthu bwyd y bwriedir ei fwyta ar unwaith, naill ai ar neu oddi ar y fangre (gan gynnwys caffi, siop goffi, busnes bwyd cyflym neu fusnes cludfwyd).

Social Care (Wales) Act 2016(**1**), is provided wholly or mainly to persons aged 18 or over and which only provides food to residents of that care home and charges for that service as part of the cost of the accommodation;

(c) "contract of employment" means a contract of service, whether express or implied, and (if it is express) whether oral or in writing;

(d) "educational institution" means an institution providing only education where that education is provided wholly or mainly to pupils below the age of 18;

(e) "employee" means an individual who has entered into, or works under, a contract of employment, whether that contract is for full-time or part-time employment;

(f) "restaurant" means a business whose premises are used mainly for the preparation or sale of food intended for immediate consumption, whether on or off the premises (including a café, coffee shop, fast food or takeaway business).

Rhan 3

Cyfyngiadau ar hyrwyddo a chyflwyno bwyd penodedig

Cyfyngu ar hyrwyddiadau pris ar gyfer bwyd penodedig

5.—(1) Ni chaiff person cymhwysol gynnig bwyd penodedig ar werth fel rhan o hyrwyddiad pris ar sail swmp (naill ai mewn siop neu ar farchnadle ar-lein).

(2) Yn y rheoliad hwn, ystyr "hyrwyddiad pris ar sail swmp" yw—

(a) hyrwyddiad amleitem, sef cynnig datganedig sy'n rhoi cymhelliad ariannol dros brynu eitemau lluosog o gymharu â phrynu pob eitem ar wahân (gan gynnwys "3 am bris 2", "3 am £10", neu "prynu 6 ac arbed 25%");

(b) hyrwyddiad sy'n dangos bod eitem, neu unrhyw ran o eitem, yn rhad ac am ddim (gan gynnwys "50% yn ychwanegol am ddim", neu "prynu un eitem a chael un arall am ddim").

(3) Nid yw hyrwyddiad amleitem yn cynnwys cynnig arbennig perthnasol.

(**1**) 2016 dccc 2.

Part 3

Restrictions on the promotion and presentation of specified food

Restriction on the price promotion of specified food

5.—(1) A qualifying person must not offer specified food for sale as part of a volume price promotion (whether in store or on an online marketplace).

(2) In this regulation, "volume price promotion" means—

(a) a multibuy promotion, being the express offer of a financial incentive for buying multiple items compared with buying each item separately (including "3 for the price of 2", "3 for £10", or "buy 6 and save 25%");

(b) a promotion that indicates that an item, or any part of an item, is free (including "50% extra free", or "buy one get one free").

(3) A multibuy promotion does not include a relevant special offer.

(**1**) 2016 anaw 2.

Cyfyngu ar gyflwyno bwyd penodedig – mewn siop

6.—(1) Ni chaiff person cymhwysol gyflwyno bwyd penodedig y tu mewn i siop—

(a) o fewn 2 fetr i gyfleuster talu, oni bai bod y bwyd penodedig wedi ei gyflwyno mewn eil (ond nid ar ei phen draw);

(b) o fewn 2 fetr i ardal giwio ddynodedig, oni bai bod y bwyd penodedig wedi ei gyflwyno mewn eil (ond nid ar ei phen draw);

(c) mewn arddangosiad—

(i) sydd ar ben draw eil (ond nid yn yr eil), na

(ii) sydd ar strwythur ar wahân (megis bin ynys, uned annibynnol, pentwr ochr neu stribed clipiau) sydd wedi ei gysylltu â phen draw eil, neu'n gyfagos iddo, neu o fewn 50 centimetr iddo;

(d) mewn unrhyw fan o fewn y pellter gwaharddedig oddi wrth ganolbwynt unrhyw fynedfa gyhoeddus i brif ardal siopa'r siop;

(e) mewn ardal allanol sydd wedi ei gorchuddio.

(2) Nid yw'r rheoliad hwn yn gymwys i'r naill neu'r llall o'r canlynol—

(a) siopau y mae arwynebedd perthnasol y llawr yn llai na 185.8 metr sgwâr;

(b) siopau nad ydynt ond yn gwerthu bwyd o un categori a restrir yn Atodlen 1 neu sy'n gwerthu bwyd o'r fath yn bennaf.

(3) Yn y rheoliad hwn—

(a) ystyr "cyfleuster talu" yw cyfleuster y bwriedir i ddefnyddwyr ei ddefnyddio i brynu, gan gynnwys terfynell hunanwasanaeth a chownter lle y defnyddir til arian parod (gan gynnwys yr ardal y tu ôl i gownter o'r fath);

(b) ystyr "ardal allanol sydd wedi ei gorchuddio" yw ardal o dan orchudd, sydd y tu allan ac wedi ei chysylltu â phrif ardal siopa siop, y mae'r cyhoedd yn pasio drwyddi er mwyn mynd i mewn i'r brif ardal siopa (megis cyntedd, lobi neu festibwl);

(c) ystyr "ardal giwio ddynodedig" yw ardal sydd wedi ei neilltuo a'i marcio at ddiben darparu lle i ddefnyddwyr aros i brynu;

(d) ystyr "pellter gwaharddedig" yw'r lleiaf o blith 15 metr neu'r ateb i'r fformiwla a ganlyn—

$$\sqrt{}(0.03 \times \alpha)$$

lle α yw arwynebedd perthnasol y llawr yn y siop;

Restriction on the presentation of specified food – in store

6.—(1) A qualifying person must not present specified food inside a store—

(a) within 2 metres of a checkout facility, unless the specified food is presented in (but not at the end of) an aisle;

(b) within 2 meters of a designated queuing area, unless the specified food is presented in (but not at the end of) an aisle;

(c) in a display—

(i) at the end of (but not in) an aisle, or

(ii) on a separate structure (such as an island bin, free-standing unit, side stack or clip strip) connected or adjacent to, or within 50 centimetres of, the end of an aisle;

(d) at any point within the prohibited distance of the midpoint of any public entrance to the store's main shopping area;

(e) in a covered external area.

(2) This regulation does not apply to either of the following—

(a) stores with a relevant floor area of less than 185.8 square metres;

(b) stores which only or mainly sell food from a single category listed in Schedule 1.

(3) In this regulation—

(a) "checkout facility" means a facility intended to be used by consumers to make a purchase, including a self-checkout terminal and a counter at which a cash register is used (including the area behind such a counter);

(b) "covered external area" means a covered area, outside and connected to a store's main shopping area, through which the public passes to enter the main shopping area (such as a foyer, lobby or vestibule);

(c) "designated queuing area" means an area set aside and marked for the purpose of providing a place for consumers to wait to make a purchase;

(d) "prohibited distance" means the smaller of 15 metres or the following—

$$\sqrt{}(0.03 \times \alpha)$$

where α is the store's relevant floor area;

(e) ystyr "arwynebedd perthnasol y llawr" yw arwynebedd mewnol llawr siop mewn adeilad, ac eithrio unrhyw ran o'r siop—

(i) nas defnyddir ar gyfer arddangos nwyddau neu ar gyfer gwasanaethu cwsmeriaid mewn cysylltiad â gwerthu nwyddau (megis mannau storio),

(ii) a ddefnyddir yn bennaf ar gyfer paratoi neu werthu bwyd y bwriedir iddo gael ei fwyta ar unwaith, naill ai ar neu oddi ar y fangre (gan gynnwys siop goffi neu ffreutur),

(iii) sy'n ystafell a ddefnyddir i ymgynghori â chwsmeriaid mewn cysylltiad ag unrhyw wasanaethau meddygol (megis fferyllfa neu wasanaethau optegydd) a gynigir yn y siop, neu

(iv) sydd wedi ei meddiannu gan fusnes heblaw'r busnes sy'n bennaf cyfrifol am reoli a gweithredu'r siop ("consesiwn"), ond dim ond pan fo'r consesiwn yn gweithredu ei gyfleusterau talu ei hun.

Cyfyngu ar gyflwyno bwyd penodedig – ar-lein

7.—(1) Ni chaiff person cymhwysol beri i fwyd penodedig gael ei gynnig ar werth ar farchnadle ar-lein—

(a) ar dudalen gartref (pa un a yw'r defnyddiwr yn mynd i mewn i'r marchnadle ar-lein drwy'r dudalen gartref ai peidio);

(b) tra bo defnyddiwr yn chwilio am gynhyrchion heblaw bwyd Atodlen 1 neu'n pori drwy gynhyrchion o'r fath, oni bai bod paragraff (4) neu (5) yn gymwys;

(c) tra bo defnyddiwr yn chwilio am fwyd Atodlen 1 neu'n pori drwy fwyd o'r fath, oni bai—

(i) bod y bwyd penodedig yn dod o fewn yr un categori yn Atodlen 1, neu

(ii) bod paragraff (4) neu (5) yn gymwys;

(d) ar dudalen nas agorir yn fwriadol gan y defnyddiwr (megis tudalen "naid" neu "hyrddiad brandio");

(e) ar dudalen hoff gynhyrchion, oni bai bod y defnyddiwr wedi prynu'r bwyd penodedig o'r blaen (naill ai mewn siop neu ar farchnadle ar-lein) neu wedi ei nodi'n fwriadol fel hoff gynnyrch, ond ni chaniateir rhoi mwy o amlygrwydd i fwyd penodedig nag i gynhyrchion eraill ar dudalen hoff gynhyrchion;

(f) ar dudalen dalu.

(e) "relevant floor area" means the internal floor area of a store in a building, excluding any part of the store which—

(i) is not used for displaying goods or for serving customers in connection with the sale of goods (such as storage areas),

(ii) is used mainly for the preparation or sale of food intended for immediate consumption, whether on or off the premises (including a coffee shop or a canteen),

(iii) is a room used for consultation with customers in connection with any medical services (such as pharmacy or opticians' services) offered in the store, or

(iv) is occupied by a business other than the business primarily responsible for managing and operating the store ("a concession"), but only where the concession operates its own payment facilities.

Restriction on the presentation of specified food – online

7.—(1) A qualifying person must not cause specified food to be offered for sale on an online marketplace—

(a) on a home page (whether or not the consumer enters the online marketplace via the home page);

(b) while a consumer is searching for or browsing products other than Schedule 1 food, unless paragraph (4) or (5) applies;

(c) while a consumer is searching for or browsing Schedule 1 food, unless—

(i) the specified food falls within the same Schedule 1 category, or

(ii) paragraph (4) or (5) applies;

(d) on a page not opened intentionally by the consumer (such as a "pop-up" page or a "brand burst");

(e) on a favourite products page, unless the consumer has previously purchased the specified food (whether in store or on an online marketplace) or intentionally identified it as a favourite product, but specified food must not be given greater prominence than other products on a favourite products page;

(f) on a checkout page.

(2) Nid yw paragraff (1) yn gwahardd cynnig bwyd penodedig ar werth ar dudalen a agorir yn fwriadol gan ddefnyddiwr at ddiben pori drwy gynigion arbennig yn gyffredinol.

(3) Nid yw'r rheoliad hwn yn gymwys mewn cysylltiad â busnes cymhwysol nad yw ond yn gwerthu bwyd o un categori a restrir yn Atodlen 1 neu sy'n gwerthu bwyd o'r fath yn bennaf.

(4) Mae'r paragraff hwn yn gymwys—

(a) pan fo defnyddiwr yn chwilio am fwyd neu'n ei bori (pa un a yw'n fwyd penodedig ai peidio), a

(b) pan fo'r person cymhwysol yn peri i fwyd penodedig gael ei gynnig ar werth ynghyd â'r bwyd y cyfeirir ato yn is-baragraff (a) fel rhan o gynnig arbennig perthnasol.

(5) Mae'r paragraff hwn yn gymwys—

(a) pan fo defnyddiwr yn pori drwy gategori cyffredinol o gynnyrch sy'n cynnwys y bwyd penodedig (megis categorïau sy'n ymwneud â thymor, neu nodweddion maeth neu ddeiet);

(b) mewn perthynas â chwilio—

(i) pan fo defnyddiwr yn chwilio am gategori cyffredinol o gynnyrch sy'n cynnwys y bwyd penodedig;

(ii) pan fo term chwilio a fewnbynnwyd gan y defnyddiwr yn cyfateb yn gyfan gwbl neu'n rhannol—

(aa) i'r enw y mae'r bwyd penodedig wedi ei farchnata odano, neu

(bb) i gynhwysyn sydd wedi ei restru ar becynwaith y bwyd penodedig.

(6) Yn y rheoliad hwn—

(a) ystyr "tudalen dalu" yw tudalen a ddangosir i ddefnyddiwr fel rhan o'r broses dalu, megis tudalen sy'n rhestru eitemau y mae'r defnyddiwr wedi eu dethol hyd hynny i'w prynu, neu dudalen sy'n ymdrin â thalu, casglu neu ddanfon;

(b) ystyr "tudalen hoff gynhyrchion" yw tudalen a agorir gan ddefnyddiwr at ddiben pori drwy gynhyrchion y mae wedi eu prynu o'r blaen neu wedi eu nodi'n fwriadol fel hoff gynhyrchion;

(c) ystyr "tudalen gartref" yw unrhyw un neu ragor o—

(i) tudalen gyhoeddus lefel uchaf marchnadle ar-lein;

(ii) tudalen gyhoeddus lefel uchaf adran groser marchnadle ar-lein.

(2) Paragraph (1) does not prohibit offering specified food for sale on a page opened intentionally by a consumer for the purpose of browsing special offers generally.

(3) This regulation does not apply in respect of a qualifying business which only or mainly sells food from a single category listed in Schedule 1.

(4) This paragraph applies where—

(a) a consumer is searching for or browsing food (whether or not specified food), and

(b) the qualifying person causes specified food to be offered for sale together with the food referred to in sub-paragraph (a) as part of a relevant special offer.

(5) This paragraph applies—

(a) where a consumer browses for a general category of product which includes the specified food (such as categories relating to seasonality, or to nutritional or dietary characteristics);

(b) in relation to searching—

(i) where a consumer searches for a general category of product which includes the specified food;

(ii) where a search term entered by the consumer matches in whole or in part—

(aa) the name under which the specified food is marketed, or

(bb) an ingredient listed on the packaging of the specified food.

(6) In this regulation—

(a) "checkout page" means a page shown to a consumer as part of the checkout process, such as a page listing items the consumer has so far selected for purchase or a page dealing with payment, collection or delivery;

(b) "favourite products page" means a page opened by a consumer for the purpose of browsing products they have previously purchased or intentionally identified as favourite products;

(c) "home page" means any of—

(i) an online marketplace's highest level public page;

(ii) the highest level public page of an online marketplace's grocery section.

Rhan 4

Cyfyngu ar hyrwyddiadau pris ar gyfer diodydd penodol

Cyfyngu ar hyrwyddiadau pris ar gyfer diodydd penodol

8.—(1) Mae'r rheoliad hwn yn gymwys i ddiod nad yw'n eitem fwyd wedi ei rhagbecynnu ac—

(a) sy'n dod o fewn categori 1 o Atodlen 1,

(b) sy'n llai iach yn rhinwedd y ffaith bod ganddi sgôr o 1 pwynt neu ragor yn unol â'r Canllawiau Technegol ar gyfer Proffilio Maethynnau, ac

(c) nad yw'n fwyd y mae rheoliad 3(6) (gwerthiant bwyd elusennol) yn gymwys iddo.

(2) Ni chaiff person cymhwysol gynnig hyrwyddiad ail-lenwad am ddim ar gyfer diod y mae'r rheoliad hwn yn gymwys iddi.

(3) Ystyr "hyrwyddiad ail-lenwad am ddim" yw hyrwyddiad sy'n cynnig i'r defnyddiwr yr un ddiod neu ddiod arall y mae'r rheoliad hwn yn gymwys iddi (gan gynnwys ychwanegiadau am ddim at unrhyw ddiod o'r fath), am ddim ar ôl yfed diod gyntaf.

Part 4

Restriction on the price promotion of certain drinks

Restriction on the price promotion of certain drinks

8.—(1) This regulation applies to a drink which is not a prepacked food item and which—

(a) falls within category 1 of Schedule 1,

(b) is less healthy by virtue of scoring 1 or more points in accordance with the Nutrient Profiling Technical Guidance, and

(c) is not food to which regulation 3(6) (charity food sales) applies.

(2) A qualifying person must not offer a free refill promotion on a drink to which this regulation applies.

(3) A "free refill promotion" means a promotion that offers the consumer the same drink or another drink to which this regulation applies (including free top-ups of any such drink) for free after consumption of a first drink.

Rhan 5

Gorfodi

Gorfodi

9. Rhaid i bob awdurdod bwyd orfodi a gweithredu'r Rheoliadau hyn o fewn ei ardal.

Hysbysiad gwella

10. Os oes gan awdurdod bwyd seiliau rhesymol dros gredu bod person yn methu â chydymffurfio ag un neu ragor o reoliadau 5 i 8, caniateir iddo, drwy hysbysiad a gyflwynir i'r person hwnnw (y cyfeirir ato yn y Rheoliadau hyn fel "hysbysiad gwella")—

(a) datgan ar ba sail y mae'r awdurdod yn credu bod y person yn methu â chydymffurfio ag un neu ragor o reoliadau 5 i 8,

(b) pennu'r materion sy'n peri bod y person yn methu â chydymffurfio,

(c) pennu'r camau y mae rhaid i'r person eu cymryd, ym marn yr awdurdod, er mwyn sicrhau cydymffurfedd, a

(d) ei gwneud yn ofynnol i'r person gymryd y camau hynny, neu gamau sy'n gyfwerth o leiaf â'r camau hynny, o fewn unrhyw gyfnod a bennir yn yr hysbysiad.

Part 5

Enforcement

Enforcement

9. Each food authority must enforce and execute these Regulations within its area.

Improvement notice

10. If a food authority has reasonable grounds for believing that a person is failing to comply with one or more of regulations 5 to 8, it may, by a notice served on that person (in these Regulations referred to as an "improvement notice")—

(a) state the authority's grounds for believing that the person is failing to comply with one or more of regulations 5 to 8,

(b) specify the matters which constitute the person's failure so to comply,

(c) specify the measures which, in the authority'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.

Rhan 6

Trosedd a sancsiwn sifil

Trosedd

11.—(1) Mae person yn cyflawni trosedd os yw'n methu â chydymffurfio â hysbysiad gwella a gyflwynir o dan reoliad 10.

(2) Mae person sy'n euog o drosedd o dan y rheoliad hwn yn agored ar euogfarn ddiannod i ddirwy.

Sancsiwn sifil

12. Mae Atodlen 2 (cosbau ariannol penodedig) i'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer gosod cosb ariannol benodedig ar berson ("cosb ariannol benodedig") yn ddewis arall fel sancsiwn sifil ar gyfer gorfodi trosedd o dan reoliad 11.

Part 6

Offence and civil sanction

Offence

11.—(1) A person commits an offence if they fail to comply with an improvement notice served under regulation 10.

(2) A person guilty of an offence under this regulation is liable on summary conviction to a fine.

Civil sanction

12. Schedule 2 (fixed monetary penalties) to these Regulations makes provision for imposing a fixed monetary penalty on a person ("fixed monetary penalty") as a civil sanction alternative for the enforcement of an offence under regulation 11.

Rhan 7

Materion atodol a gweinyddol

Canllawiau o ran defnyddio cosbau ariannol penodedig

13.—(1) Rhaid i bob awdurdod bwyd gyhoeddi canllawiau ynghylch ei ddefnydd o'r pŵer ym mharagraff 1 o Atodlen 2 (pŵer i osod cosbau ariannol penodedig).

(2) Rhaid i'r canllawiau y cyfeirir atynt ym mharagraff (1) gynnwys gwybodaeth gan gynnwys (pa un ai ymhlith pethau eraill ai peidio)—

(a) yr amgylchiadau pan fo cosb ariannol benodedig yn debygol o gael ei gosod o dan y Rheoliadau hyn,

(b) yr amgylchiadau pan na chaniateir ei gosod,

(c) swm y gosb,

(d) sut y caniateir cael rhyddhad rhag atebolrwydd am y gosb ac effaith y rhyddhad hwnnw, ac

(e) hawliau person i gyflwyno sylwadau a gwrthwynebiadau a'i hawliau apelio.

(3) Rhaid i'r awdurdod bwyd adolygu'r canllawiau pan fo'n ystyried ei bod yn briodol.

Guidance as to use of fixed monetary penalties

13.—(1) Each food authority must publish guidance about its use of the power in paragraph 1 of Schedule 2 (power to impose fixed monetary penalties).

(2) The guidance referred to in paragraph (1) must contain information including (whether or not among other things)—

(a) the circumstances in which a fixed monetary penalty is likely to be imposed under these Regulations,

(b) the circumstances in which it may not be imposed,

(c) the amount of the penalty,

(d) how liability for the penalty may be discharged and the effect of discharge, and

(e) a person's rights to make representations and objections and their rights of appeal.

(3) The food authority must revise the guidance where it considers appropriate.

(4) Rhaid i'r awdurdod bwyd ymgynghori â'r personau hynny y mae'n ystyried eu bod yn briodol cyn cyhoeddi unrhyw ganllawiau neu ganllawiau diwygiedig.

(5) Rhaid i bob awdurdod bwyd roi sylw i'r canllawiau neu'r canllawiau diwygiedig wrth arfer ei swyddogaethau o dan y Rheoliadau hyn.

Cyhoeddi camau gorfodi

14.—(1) Rhaid i bob awdurdod bwyd o bryd i'w gilydd gyhoeddi adroddiad am y camau gorfodi y mae wedi eu cymryd o dan y Rheoliadau hyn.

(2) Rhaid i'r adroddiad y cyfeirir ato ym mharagraff (1) bennu—

(a) yr achosion y gosodwyd cosb ariannol benodedig ynddynt, a

(b) yr achosion y cafwyd rhyddhad rhag atebolrwydd am y gosb ariannol benodedig ynddynt drwy dalu'r gosb yn dilyn yr hysbysiad o fwriad a heb fod camau pellach yn cael eu cymryd.

(3) Ym mharagraff (2)(a), nid yw'r cyfeiriad at achosion y gosodwyd y gosb ariannol benodedig ynddynt yn cynnwys achosion pan fo'r gosb wedi ei gosod ond wedi ei gwrthdroi ar apêl.

(4) Nid yw'r rheoliad hwn yn gymwys mewn achosion pan fo'r canlynol yn wir ar adeg cyhoeddi'r adroddiad—

(a) nid yw'r cyfnod o 28 o ddiwrnodau sy'n dechrau â'r diwrnod y gosodwyd y gosb ariannol benodedig wedi dod i ben eto, neu

(b) mae apêl a gyflwynwyd yn unol â pharagraffau 8 a 9 o Atodlen 2 yn yr arfaeth mewn perthynas â'r gosb ariannol benodedig.

(5) Nid oes dim yn y rheoliad hwn sy'n awdurdodi prosesu data personol pan fyddai gwneud hynny yn mynd yn groes i'r ddeddfwriaeth diogelu data, ac at y dibenion hyn, mae i "data personol" ac "y ddeddfwriaeth diogelu data" yr un ystyr ag a roddir i "personal data" a "the data protection legislation" yn adran 3 o Ddeddf Diogelu Data 2018(**1**).

Adolygu

15.—(1) Yn ogystal â'r adolygiad a gynhelir o dan adran 67 (adolygu) o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008, rhaid i Weinidogion Cymru o bryd i'w gilydd adolygu'r ddarpariaeth reoleiddiol sydd wedi ei chynnwys yn y Rheoliadau hyn a chyhoeddi adroddiad sy'n nodi casgliadau'r adolygiad.

(**1**) 2018 p. 12; diwygiwyd adran 3 gan O.S. 2019/419.

(4) The food authority must consult with such persons as it considers appropriate before publishing any guidance or revised guidance.

(5) Each food authority must have regard to the guidance or revised guidance in exercising its functions under these Regulations.

Publication of enforcement action

14.—(1) Each food authority must from time to time publish a report about the enforcement action it has taken under these Regulations.

(2) The report referred to in paragraph (1) must specify—

(a) the cases in which a fixed monetary penalty has been imposed, and

(b) the cases in which liability to the fixed monetary penalty has been discharged by payment of the penalty following the notice of intent and without further action being taken.

(3) In paragraph (2)(a), the reference to cases in which the fixed monetary penalty has been imposed does not include cases where the penalty has been imposed but overturned on appeal.

(4) This regulation does not apply in cases where at the time the report is published—

(a) the period of 28 days beginning with the day the fixed monetary penalty was imposed has not yet elapsed, or

(b) an appeal brought in accordance with paragraphs 8 and 9 of Schedule 2 is pending in relation to the fixed monetary penalty.

(5) Nothing in this regulation authorises the processing of personal data where doing so would contravene the data protection legislation, and for these purposes "personal data" and "the data protection legislation" have the same meanings as in section 3 of the Data Protection Act 2018(**1**).

Review

15.—(1) In addition to the review carried out under section 67 (review) of the Regulatory Enforcement and Sanctions Act 2008, the Welsh Ministers must from time to time review the regulatory provision contained in these Regulations and publish a report setting out the conclusions of the review.

(**1**) 2018 c. 12; section 3 was amended by S.I. 2019/419.

(2) Rhaid cyhoeddi'r adroddiad cyntaf cyn diwedd y cyfnod o 5 mlynedd sy'n dechrau â'r diwrnod y daw'r Rheoliadau hyn i rym.

(3) Rhaid cyhoeddi adroddiadau dilynol ar ysbeidiau heb fod yn hwy na 5 mlynedd.

(4) Rhaid i adroddiad a gyhoeddir o dan y rheoliad hwn, yn benodol—

(a) nodi'r amcanion y bwriedir eu cyflawni gan y ddarpariaeth reoleiddiol yn y Rheoliadau hyn,

(b) asesu i ba raddau y cyflawnir yr amcanion hynny,

(c) asesu i ba raddau y mae'r amcanion hynny yn parhau'n briodol, a

(d) os yw'r amcanion hynny yn parhau'n briodol, asesu i ba raddau y gellid eu cyflawni mewn ffordd arall sy'n cynnwys darpariaeth reoleiddiol lai beichus.

(5) Yn y rheoliad hwn mae i "darpariaeth reoleiddiol" yr un ystyr â "regulatory provision" yn adran 32 o Ddeddf Busnesau Bach, Menter a Chyflogaeth 2015(**1**).

(2) The first report must be published before the end of the period of 5 years beginning with the day on which these Regulations come into force.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) A report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision in these Regulations,

(b) assess the extent to which those objectives are achieved,

(c) assess the extent to which those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, "regulatory provision" has the same meaning as in section 32 of the Small Business, Enterprise and Employment Act 2015(**1**).

Rhan 8

Cymhwyso ac addasu'r Ddeddf

Cymhwyso ac addasu'r Ddeddf

16.—(1) Mae'r darpariaethau a ganlyn yn y Ddeddf yn gymwys at ddibenion y Rheoliadau hyn fel pe bai unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf, neu at unrhyw Ran o'r Ddeddf, yn gyfeiriad at y Rheoliadau hyn—

(a) adran 3 (rhagdybiaethau y bwriedir i fwyd gael ei fwyta gan bobl);

(b) adran 20 (troseddau oherwydd bai person arall);

(c) adran 21 (amddiffyniad diwydrwydd dyladwy) gyda'r addasiadau a bennir yn Rhan 1 o Atodlen 3;

(d) adran 30(8) (sy'n ymwneud â thystiolaeth ddogfennol);

(e) adran 32(1) i (8) (pwerau mynediad) gyda'r addasiadau a bennir yn Rhan 2 o Atodlen 3;

(f) adran 33(1) a (2) (rhwystro etc. swyddogion);

(g) adran 34 (terfynau amser ar gyfer erlyniadau) gyda'r addasiad a bennir yn Rhan 3 o Atodlen 3;

Part 8

Application and modification of the Act

Application and modification of the Act

16.—(1) The following provisions of the Act apply for the purposes of these Regulations as if any reference in those provisions to the Act, or to any Part of the Act, were a reference to these Regulations—

(a) section 3 (presumptions that food intended for human consumption);

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

(c) section 21 (defence of due diligence) with the modifications specified in Part 1 of Schedule 3;

(d) section 30(8) (which relates to documentary evidence);

(e) section 32(1) to (8) (powers of entry) with the modifications specified in Part 2 of Schedule 3;

(f) section 33(1) and (2) (obstruction etc. of officers);

(g) section 34 (time limits for prosecutions) with the modification specified in Part 3 of Schedule 3;

(**1**) 2015 p. 26.

(**1**) 2015 c. 26.

(h) adran 35(1) a (2) (cosbi troseddau) gyda'r addasiadau a bennir yn Rhan 4 o Atodlen 3;

(i) adran 36 (troseddau gan gyrff corfforedig);

(j) adran 36A (troseddau gan bartneriaethau Albanaidd);

(k) adran 37(1), (3), (5) a (6) (apelau i lys ynadon) gyda'r addasiadau a bennir yn Rhan 5 o Atodlen 3;

(l) adran 39 (apelau yn erbyn hysbysiadau gwella) gyda'r addasiadau a bennir yn Rhan 6 o Atodlen 3;

(m) adran 44 (amddiffyn swyddogion sy'n gweithredu'n ddidwyll);

(n) adran 49(1), (3), (4) a (5) (ffurf a dilysu dogfennau) gyda'r addasiad a bennir yn Rhan 7 o Atodlen 3;

(o) adran 50 (cyflwyno dogfennau).

(h) section 35(1) and (2) (punishment of offences) with the modifications specified in Part 4 of Schedule 3;

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

(j) section 36A (offences by Scottish partnerships);

(k) section 37(1), (3), (5) and (6) (appeals to magistrates' court) with the modifications specified in Part 5 of Schedule 3;

(l) section 39 (appeals against improvement notices) with the modifications specified in Part 6 of Schedule 3;

(m) section 44 (protection of officers acting in good faith);

(n) section 49(1), (3), (4) and (5) (form and authentication of documents) with the modification specified in Part 7 of Schedule 3;

(o) section 50 (service of documents).

Jeremy Miles

Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol, un o Weinidogion Cymru
26 Mawrth 2025

Cabinet Secretary for Health and Social Care, one of the Welsh Ministers
26 March 2025

ATODLEN 1 Rheoliad 3

Categorïau o fwyd penodedig

Categori 1

1. Diodydd ysgafn parod sy'n cynnwys cynhwysion siwgr wedi eu hychwanegu (heblaw'r diodydd ysgafn esempt a restrir ym mharagraff 2(9)).

2.—(1) Mae'r darpariaethau a ganlyn yn gymwys at ddibenion y categori hwn.

(2) Ystyr "diod ysgafn" yw—

(a) diod o gryfder alcoholig heb fod yn fwy nag 1.2%, neu

(b) hylif neu bowdr sydd, o'i baratoi mewn modd penodedig, yn ffurfio diod o gryfder alcoholig heb fod yn fwy na 1.2%.

(3) Mae hylif neu bowdr wedi ei baratoi mewn dull penodedig os yw—

(a) wedi ei wanedu,

(b) wedi ei gyfuno ag iâ mâl, neu wedi ei brosesu er mwyn creu iâ mâl,

(c) wedi ei gyfuno â charbon deuocsid, neu

SCHEDULE 1 Regulation 3

Categories of specified food

Category 1

1. Prepared soft drinks containing added sugar ingredients (other than the exempt soft drinks listed in paragraph 2(9)).

2.—(1) The following provisions apply for the purposes of this category.

(2) "Soft drink" means—

(a) a beverage of an alcoholic strength not exceeding 1.2%, or

(b) a liquid or a powder which, when prepared in a specified manner, constitutes a beverage of an alcoholic strength not exceeding 1.2%.

(3) A liquid or a powder is prepared in a specified manner if it is—

(a) diluted,

(b) combined with crushed ice, or processed so as to create crushed ice,

(c) combined with carbon dioxide, or

(d) wedi ei baratoi drwy broses sy'n cynnwys unrhyw gyfuniad o'r prosesau a grybwyllir ym mharagraffau (a) i (c).

(4) Mae diod ysgafn yn "barod" os yw—

(a) yn ddiod ysgafn o fewn ystyr paragraff 2(2)(a),

(b) yn ddiod ysgafn o fewn ystyr paragraff 2(2)(b), neu

(c) yn ddiod a fyddai'n deillio o baratoi hylif neu bowdr o fewn paragraff 2(2)(b)—

(i) mewn modd penodedig (*gweler* paragraff 2(3)), a

(ii) yn unol â'r gymhareb wanedu berthnasol.

(5) Ystyr "cymhareb wanedu berthnasol" yw—

(a) y gymhareb wanedu a nodir ar becynwaith y ddiod ysgafn, neu a gyfrifir drwy gyfeirio at wybodaeth a nodir ar becynwaith o'r fath, neu

(b) pan na fo cymhareb wanedu neu wybodaeth o'r fath wedi ei nodi, cymhareb wanedu diodydd tebyg sydd ar y farchnad.

(6) Mae diod ysgafn yn cynnwys "cynhwysion siwgr wedi eu hychwanegu" os cyfunir unrhyw un neu ragor o'r sylweddau a ganlyn â chynhwysion eraill ar unrhyw gam wrth gynhyrchu'r ddiod ysgafn—

(a) monosacaridau caloriffig neu ddeusacaridau caloriffig;

(b) sylwedd sy'n cynnwys monosacaridau caloriffig neu ddeusacaridau caloriffig.

(7) Ond nid yw diod ysgafn yn cynnwys "cynhwysion siwgr wedi eu hychwanegu" dim ond oherwydd ei bod yn cynnwys sudd ffrwythau, sudd llysiau neu laeth (neu unrhyw gyfuniad ohonynt).

(8) Yn is-baragraff (7)—

(a) mae "sudd ffrwythau" i'w ddehongli yn unol â rheoliad 5 o Reoliadau Ardoll y Diwydiant Diodydd Ysgafn 2018(**1**) (amod cynnwys siwgr: sudd ffrwythau) ("Rheoliadau ADDY");

(b) mae "sudd llysiau" i'w ddehongli yn unol â rheoliad 6 o Reoliadau ADDY (amod cynnwys siwgr: sudd llysiau);

(c) mae "llaeth" i'w ddehongli yn unol â rheoliad 7 o Reoliadau ADDY (amod cynnwys siwgr a diodydd ysgafn esempt: llaeth a diodydd sydd wedi eu seilio ar laeth).

(**1**) O.S. 2018/41.

(d) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (a) to (c).

(4) A soft drink is "prepared" if it is—

(a) a soft drink within the meaning of paragraph 2(2)(a),

(b) a soft drink within the meaning of paragraph 2(2)(b), or

(c) a beverage that would result from preparing a liquid or a powder within paragraph 2(2)(b)—

(i) in a specified manner (*see* paragraph 2(3)), and

(ii) in accordance with the relevant dilution ratio.

(5) The "relevant dilution ratio" means—

(a) the dilution ratio stated on, or calculated by reference to information stated on, the packaging of the soft drink, or

(b) where no such dilution ratio or information is stated, the dilution ratio of similar drinks on the market.

(6) A soft drink contains "added sugar ingredients" if any of the following are combined with other ingredients at any stage in the production of the soft drink—

(a) calorific monosaccharides or disaccharides;

(b) a substance containing calorific monosaccharides or disaccharides.

(7) But a soft drink does not contain "added sugar ingredients" only by reason of containing fruit juice, vegetable juice or milk (or any combination of them).

(8) In sub-paragraph (7)—

(a) "fruit juice" is to be interpreted in accordance with regulation 5 of the Soft Drinks Industry Levy Regulations 2018(**1**) (sugar content condition: fruit juice) ("the SDIL Regulations");

(b) "vegetable juice" is to be interpreted in accordance with regulation 6 of the SDIL Regulations (sugar content condition: vegetable juice);

(c) "milk" is to be interpreted in accordance with regulation 7 of the SDIL Regulations (sugar content condition and exempt soft drinks: milk and milk-based drinks).

(**1**) S.I. 2018/41.

(9) Mae'r canlynol yn "diodydd ysgafn esempt"—

(a) diodydd ysgafn sy'n debyg i fath penodol o ddiod alcoholaidd ac sy'n bodloni amodau penodedig;

(b) diodydd ysgafn o ddisgrifiad penodedig sydd i'w defnyddio at ddibenion meddyginiaethol neu ddibenion penodedig eraill.

(10) At ddibenion is-baragraff (9)(a), yr amodau penodedig yw—

(a) amod 1, y darperir ar ei gyfer gan baragraff (2) o reoliad 9 o Reoliadau ADDY (diodydd ysgafn esempt: diodydd efelychu alcohol), a

(b) un neu ragor o amodau 2, 3 a 4, y darperir ar eu cyfer gan baragraffau (3) i (5) o reoliad 9 o Reoliadau ADDY.

(11) At ddibenion is-baragraff (9)(b)—

(a) y dibenion meddyginiaethol neu'r dibenion penodedig eraill yw'r rhai y darperir ar eu cyfer gan baragraff (1) o reoliad 10 o Reoliadau ADDY (diodydd ysgafn esempt: at ddibenion meddyginiaethol neu ddibenion eraill), a

(b) y disgrifiadau penodedig yw'r disgrifiadau cyfatebol y darperir ar eu cyfer ym mharagraff (3) o reoliad 10 o Reoliadau ADDY.

(9) The following are "exempt soft drinks"—

(a) soft drinks which are similar to a particular kind of alcoholic beverage and which meet specified conditions;

(b) soft drinks of a specified description which are for use for medicinal or other specified purposes.

(10) For the purposes of sub-paragraph (9)(a), the specified conditions are—

(a) condition 1 provided for by paragraph (2) of regulation 9 of the SDIL Regulations (exempt soft drinks: alcohol substitute drinks), and

(b) one or more of conditions 2, 3 and 4 provided for by paragraphs (3) to (5) of regulation 9 of the SDIL Regulations.

(11) For the purposes of sub-paragraph (9)(b)—

(a) the medicinal or other specified purposes are those provided for by paragraph (1) of regulation 10 of the SDIL Regulations (exempt soft drinks: for medicinal or other purposes), and

(b) the specified descriptions are the corresponding descriptions provided for in paragraph (3) of regulation 10 of the SDIL Regulations.

Categori 2

3.—(1) Unrhyw un neu ragor o'r eitemau a ganlyn—

(a) byrbrydau sawrus, pa un a fwriedir iddynt gael eu bwyta ar eu pen eu hunain neu fel rhan o bryd bwyd cyfan, gan gynnwys—

(i) cynhyrchion wedi eu gwneud o datws, llysiau eraill, grawn neu godlysiau;

(ii) cynhyrchion allwthiedig, taflennog a phelennog;

(iii) cracers sawrus mewn bag, cacennau reis mewn bag neu fisgedi mewn bag,

megis creision, byrbrydau sydd wedi eu seilio ar fara pita, pretsels, popadoms, popgorn wedi ei halltu a chracers corgimwch (ond nid cnau amrwd, cnau wedi eu rhostio, cnau wedi eu caenu na chnau wedi eu cyflasu);

(b) byrbrydau sydd wedi eu seilio ar grofen porc, pa un a fwriedir iddynt gael eu bwyta ar eu pen eu hunain neu fel rhan o bryd bwyd cyfan.

Category 2

3.—(1) Any of the following—

(a) savoury snacks whether intended to be consumed alone or as part of a complete meal including—

(i) products made from potato, other vegetables, grain or pulses;

(ii) extruded, sheeted and pelleted products;

(iii) bagged savoury crackers, rice cakes or biscuits,

such as crisps, pitta bread based snacks, pretzels, poppadums, salted popcorn and prawn crackers (but not raw, roasted, coated or flavoured nuts);

(b) pork rind-based snacks whether intended to be consumed alone or as part of a complete meal.

Categori 3

4. Grawnfwydydd brecwast, gan gynnwys grawnfwydydd parod i'w bwyta, granola, miwsli, ceirch uwd a grawnfwydydd eraill sydd wedi eu seilio ar geirch.

Category 3

4. Breakfast cereals, including ready-to-eat cereals, granola, muesli, porridge oats and other oat-based cereals.

Categori 4

5. Melysfwyd, gan gynnwys siocledi a melysion.

Category 4

5. Confectionery, including chocolates and sweets.

Categori 5

6. Hufen iâ, lolis iâ, iogwrt wedi ei rewi, iâ dŵr a chynhyrchion rhewedig tebyg.

Category 5

6. Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products.

Categori 6

7. Cacennau a chacennau cwpan.

Category 6

7. Cakes and cupcakes.

Categori 7

8. Bisgedi a bariau melys sy'n seiliedig ar un neu ragor o gnau, hadau neu rawnfwyd.

Category 7

8. Sweet biscuits and bars based on one or more of nuts, seeds or cereal.

Categori 8

9. Nwyddau boreol, gan gynnwys croissants, pains au chocolat a chrystiau tebyg, cramwyth, crempogau, byns, cacennau te, sgonau, wafflau, crystiau Danaidd a thorthau ffrwythau.

Category 8

9. Morning goods, including croissants, pains au chocolat and similar pastries, crumpets, pancakes, buns, teacakes, scones, waffles, Danish pastries and fruit loaves.

Categori 9

10. Pwdinau, gan gynnwys pasteiod, tartenni a fflaniau, cacennau caws, gateaux, pwdinau llaeth, pwdinau sbwng, pwdin reis, crymblau, llenwadau ffrwythau, pwdinau o bowdr, cwstardau, jelïau a meringues.

Category 9

10. Desserts and puddings, including pies, tarts and flans, cheesecake, gateaux, dairy desserts, sponge puddings, rice pudding, crumbles, fruit fillings, powdered desserts, custards, jellies and meringues.

Categori 10

11. Iogwrt a fromage frais wedi eu melysu (naill ai â siwgr neu fel arall).

Category 10

11. Sweetened (whether with sugar or otherwise) yoghurt and fromage frais.

Categori 11

12. Pizza (ac eithrio seiliau pizza plaen).

Category 11

12. Pizza (except plain pizza bases).

Categori 12

13. Tatws rhost, sglodion, sglodion tenau a wedjys o datws a thatws melys, wafflau tatws, siapiau tatws difyr (megis wynebau gwên), hash browns, rostis, sleisys tatws creisionllyd, croquettes tatws.

Categori 13

14.—(1) Unrhyw un neu ragor o'r eitemau a ganlyn—

(a) cynhyrchion sy'n cael eu marchnata fel rhai sy'n barod ar gyfer eu coginio neu eu hailgynhesu heb fod angen eu paratoi ymhellach ac y bwriedir iddynt gael eu bwyta fel pryd bwyd cyfan;

(b) cynhyrchion, heblaw am gynhyrchion sy'n cynnwys crwst, sydd mewn saws neu sydd â saws (ond nid marinâd, sglein, dresin, sesnin na chyfwyd tebyg) sy'n cael eu marchnata fel rhai sy'n barod ar gyfer eu coginio neu eu hailgynhesu heb fod angen eu paratoi ymhellach ac y bwriedir iddynt gael eu bwyta fel prif elfen pryd o fwyd;

(c) yr eitemau a ganlyn sydd mewn briwsion bara neu gytew—

(i) cynhyrchion llysiau, pysgod, pysgod cregyn, cig neu ddofednod;

(ii) cynhyrchion efelychu pysgod, cynhyrchion efelychu pysgod cregyn, cynhyrchion efelychu cig neu gynhyrchion efelychu dofednod,

gan gynnwys bysedd pysgod, cacennau pysgod a chnapiau cyw iâr.

Category 12

13. Roast potatoes, potato and sweet potato chips, fries and wedges, potato waffles, novelty potato shapes (such as smiley faces), hash browns, rostis, crispy potato slices, potato croquettes.

Category 13

14.—(1) Any of the following—

(a) products that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as a complete meal;

(b) products, other than products that contain pastry, in or with a sauce (but not a marinade, glaze, dressing, seasoning or similar accompaniment) that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as the main element of a meal;

(c) breaded or battered—

(i) vegetable, fish, shellfish, meat or poultry products;

(ii) substitute fish, shellfish, meat or poultry products,

including fish fingers, fish cakes and chicken nuggets.

ATODLEN 2 Rheoliad 12

Cosbau ariannol penodedig

Gosod cosb ariannol benodedig

1.—(1) Caiff awdurdod bwyd, drwy hysbysiad, osod cosb ariannol benodedig ar berson mewn perthynas â throsedd o dan reoliad 11.

(2) Cyn gwneud hynny, rhaid i'r awdurdod bwyd fod wedi ei fodloni, y tu hwnt i amheuaeth resymol, fod y person wedi cyflawni'r drosedd.

(3) Swm y gosb i'w thalu i'r awdurdod bwyd fel cosb ariannol benodedig yw £2,500.

SCHEDULE 2 Regulation 12

Fixed monetary penalties

Imposition of a fixed monetary penalty

1.—(1) A food authority may by notice impose a fixed monetary penalty on a person in relation to an offence under regulation 11.

(2) Before doing so, the food authority must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) The amount of penalty to be paid to the food authority as a fixed monetary penalty is £2,500.

Hysbysiad o fwriad

2.—(1) Pan fo awdurdod bwyd yn cynnig gosod cosb ariannol benodedig ar berson, rhaid iddo gyflwyno hysbysiad o'r hyn a gynigir ("hysbysiad o fwriad") i'r person hwnnw.

(2) Rhaid i'r hysbysiad o fwriad gynnwys—

(a) y seiliau dros y cynnig i osod y gosb ariannol benodedig;

(b) swm y gosb;

(c) datganiad y gellir cael rhyddhad rhag atebolrwydd am y gosb drwy dalu 50% o'r gosb o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad;

(d) gwybodaeth am—

(i) effaith y taliad rhyddhau yn is-baragraff (2)(c);

(ii) yr hawl i gyflwyno sylwadau a gwrthwynebiadau o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad o fwriad;

(iii) o dan ba amgylchiadau na chaiff yr awdurdod bwyd osod y gosb ariannol benodedig (gan gynnwys unrhyw amddiffyniadau sy'n ymwneud â'r drosedd y cyflwynir yr hysbysiad mewn perthynas â hi).

Rhyddhau rhag atebolrwydd

3. Caiff y gosb ei rhyddhau os yw person sy'n cael hysbysiad o fwriad yn talu 50% o swm y gosb o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad.

Cyflwyno sylwadau a gwrthwynebiadau

4.—(1) Caiff person y cyflwynir hysbysiad o fwriad iddo, o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad, gyflwyno sylwadau a gwrthwynebiadau ysgrifenedig i'r awdurdod bwyd mewn perthynas â'r cynnig i osod y gosb ariannol benodedig.

(2) Ar ôl diwedd y cyfnod ar gyfer cyflwyno sylwadau a gwrthwynebiadau, rhaid i'r awdurdod bwyd benderfynu a yw am osod y gosb ariannol benodedig.

Cyflwyno hysbysiad terfynol

5.—(1) Os nad yw'r person sydd wedi cael hysbysiad o fwriad yn ei ryddhau ei hun rhag atebolrwydd o fewn 28 o ddiwrnodau, caiff yr awdurdod bwyd gyflwyno hysbysiad ("hysbysiad terfynol") i'r person hwnnw, sy'n gosod cosb ariannol benodedig.

Notice of intent

2.—(1) When a food authority proposes to impose a fixed monetary penalty on a person, the food authority must serve on that person a notice of what is proposed ("notice of intent").

(2) The notice of intent must include—

(a) the grounds for the proposal to impose the fixed monetary penalty;

(b) the amount of the penalty;

(c) a statement that the liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was received;

(d) information as to—

(i) the effect of the discharge payment in sub-paragraph (2)(c);

(ii) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;

(iii) the circumstances in which the food authority may not impose the fixed monetary penalty (including any defences relating to the offence in relation to which the notice is served).

Discharge of liability

3. The penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

Making representations and objections

4.—(1) A person on whom a notice of intent is served may, within 28 days beginning with the day on which the notice was received, make written representations and objections to the food authority in relation to the proposed imposition of the fixed monetary penalty.

(2) After the end of the period for making representations and objections, the food authority must decide whether to impose the fixed monetary penalty.

Service of final notice

5.—(1) If the person who has received a notice of intent does not discharge liability within 28 days, the food authority may serve on that person a notice ("final notice") imposing a fixed monetary penalty.

(2) Ni chaiff yr awdurdod bwyd gyflwyno hysbysiad terfynol i berson pan fo'r awdurdod bwyd wedi ei fodloni na fyddai'r person, oherwydd unrhyw amddiffyniad, yn agored i gael ei euogfarnu o'r drosedd y mae'r hysbysiad yn ymwneud â hi.

(3) Pan fo awdurdod bwyd wedi cyflwyno hysbysiad terfynol sy'n ymwneud â chosb ariannol benodedig, ni chaiff gyflwyno unrhyw hysbysiad arall o dan y Rheoliadau hyn mewn perthynas â'r drosedd.

(2) The food authority must not serve a final notice on a person where the food authority is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(3) Where a food authority has served a final notice relating to a fixed monetary penalty, it must not serve any other notice under these Regulations in relation to the offence.

Cynnwys hysbysiad terfynol

6. Rhaid i hysbysiad terfynol gynnwys gwybodaeth am—

(a) swm y gosb,

(b) y seiliau dros osod y gosb,

(c) sut y mae rhaid talu,

(d) y cyfnod o 28 o ddiwrnodau y mae rhaid talu o'i fewn,

(e) manylion y disgownt am dalu'n gynnar,

(f) hawliau apelio, ac

(g) canlyniadau methu â thalu (gan gynnwys manylion y cosbau am dalu'n hwyr).

Contents of final notice

6. A final notice must include information as to—

(a) the amount of the penalty,

(b) the grounds for imposing the penalty,

(c) how payment must be made,

(d) the period of 28 days within which payment must be made,

(e) details of the early payment discount,

(f) rights of appeal, and

(g) the consequences of non-payment (including details of the late payment penalties).

Disgownt am dalu'n gynnar

7. Os yw person y cyflwynwyd hysbysiad o fwriad iddo wedi cyflwyno sylwadau neu wrthwynebiadau ynglŷn â'r hysbysiad hwnnw o fewn y terfyn amser, caiff y person hwnnw ryddhau'r hysbysiad terfynol drwy dalu 50% o'r gosb o fewn 14 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad terfynol.

Discount for early payment

7. If a person who was served with a notice of intent made representations or objections concerning that notice within the time limit, that person may discharge the final notice by paying 50% of the penalty within 14 days beginning with the day on which the final notice was received.

Apelau yn erbyn hysbysiad terfynol

8.—(1) Caiff person sy'n cael hysbysiad terfynol apelio yn ei erbyn.

(2) Y seiliau dros apelio yw—

(a) bod y penderfyniad yn seiliedig ar wall ffeithiol;

(b) bod y penderfyniad yn anghywir mewn cyfraith;

(c) bod y penderfyniad yn afresymol;

(d) bod y penderfyniad yn anghywir am unrhyw reswm arall.

Appeals against a final notice

8.—(1) A person who receives a final notice may appeal against it.

(2) The grounds of appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was wrong for any other reason.

Apelau

9.—(1) Mae apêl o dan baragraff 8 yn apêl i'r Tribiwnlys Haen Gyntaf.

(2) Mae hysbysiad terfynol wedi ei atal dros dro wrth aros i'r apêl gael ei phenderfynu neu ei thynnu yn ôl.

(3) Caiff y Tribiwnlys Haen Gyntaf—

(a) tynnu'n ôl, cadarnhau neu amrywio'r gosb neu'r hysbysiad terfynol,

(b) cymryd unrhyw gamau y gallai'r awdurdod bwyd fod wedi eu cymryd mewn perthynas â'r weithred neu'r anweithred sy'n arwain at y gosb neu'r hysbysiad terfynol, neu

(c) anfon y penderfyniad o ran cadarnhau'r gosb neu'r hysbysiad terfynol, neu unrhyw fater arall sy'n ymwneud â'r penderfyniad hwnnw, i'r awdurdod priodol.

Methu â thalu ar ôl 28 o ddiwrnodau (cosb am dalu'n hwyr)

10.—(1) Rhaid i'r gosb gael ei thalu o fewn 28 o ddiwrnodau i gael yr hysbysiad terfynol.

(2) Os na thelir y gosb o fewn 28 o ddiwrnodau, cynyddir y swm sy'n daladwy 50%.

(3) Yn achos apêl, mae'r gosb (pa un a yw'r Tribiwnlys Haen Gyntaf wedi ei hamrywio neu ei chadarnhau) yn daladwy o fewn 14 o ddiwrnodau i benderfynu'r apêl (os yw'r apêl yn aflwyddiannus), ac os nad yw wedi ei thalu o fewn 14 o ddiwrnodau, cynyddir swm y gosb 50%.

Adennill taliadau

11. Caiff awdurdod bwyd adennill unrhyw gosb a osodir o dan yr Atodlen hon, ac unrhyw gosb ariannol am dalu'n hwyr, ar orchymyn llys, fel pe bai'n daladwy o dan orchymyn llys.

Achosion troseddol

12.—(1) Os cyflwynir hysbysiad o fwriad ar gyfer cosb ariannol benodedig i unrhyw berson—

(a) ni chaniateir dechrau achos troseddol am y drosedd yn erbyn y person hwnnw mewn cysylltiad â'r weithred neu'r anweithred y mae'r hysbysiad yn ymwneud â hi cyn 28 o ddiwrnodau o'r dyddiad y ceir yr hysbysiad o fwriad, a

(b) os yw'r person hwnnw yn ei ryddhau ei hun rhag atebolrwydd, ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd mewn perthynas â'r weithred neu'r anweithred honno.

Appeals

9.—(1) An appeal under paragraph 8 is to the First-tier Tribunal.

(2) A final notice is suspended pending the determination or withdrawal of the appeal.

(3) The First-tier Tribunal may—

(a) withdraw, confirm or vary the penalty or final notice,

(b) take such steps as the food authority could have taken in relation to the act or omission giving rise to the penalty or final notice, or

(c) remit the decision whether to confirm the penalty or final notice, or any other matter relating to that decision, to the food authority.

Non-payment after 28 days (late payment penalty)

10.—(1) The penalty must be paid within 28 days of receipt of the final notice.

(2) If the penalty is not paid within 28 days, the amount payable is increased by 50%.

(3) In the case of an appeal, the penalty (whether varied or confirmed by the First-Tier Tribunal) is payable within 14 days of the determination of the appeal (if the appeal is unsuccessful), and if it is not paid within 14 days the amount of the penalty is increased by 50%.

Recovery of payments

11. A food authority may recover any penalty imposed under this Schedule, and any financial penalty for late payment, on the order of a court, as if payable under a court order.

Criminal proceedings

12.—(1) If a notice of intent for a fixed monetary penalty is served on any person—

(a) no criminal proceedings for the offence may be instituted against that person in respect of the act or omission to which the notice relates before 28 days from the date on which the notice of intent is received, and

(b) if that person discharges liability, that person may not at any time be convicted of the offence in relation to that act or omission.

(2) Os gosodir cosb ariannol benodedig ar unrhyw berson, ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd mewn cysylltiad â'r weithred neu'r anweithred sy'n arwain at y gosb.

Tynnu hysbysiad yn ôl

13. Caiff awdurdod bwyd, ar unrhyw adeg yn ysgrifenedig, dynnu'n ôl hysbysiad sy'n gosod cosb ariannol benodedig.

(2) If a fixed monetary penalty is imposed on any person, that person may not at any time be convicted of the offence in respect of the act or omission giving rise to the penalty.

Withdrawing a notice

13. A food authority may at any time in writing withdraw a notice imposing a fixed monetary penalty.

ATODLEN 3 Rheoliad 16

Addasu darpariaethau'r Ddeddf

RHAN 1

Addasu adran 21 o'r Ddeddf (amddiffyniad diwydrwydd dyladwy)

1. Mae adran 21 yn gymwys fel pe bai—

(a) yn is-adran (2), y cyfeiriad at drosedd o dan adran 14 neu 15 yn gyfeiriad at drosedd o dan y Rheoliadau hyn, a

(b) yn is-adran (4)(b), y cyfeiriadau at "sale or intended sale" yn cynnwys cyfeiriadau at "promotion or presentation".

RHAN 2

Addasu adran 32 o'r Ddeddf (pwerau mynediad)

2. Mae adran 32(1)(a) yn gymwys fel be bai "or of regulations or orders made under it" wedi ei hepgor.

3. Mae adran 32(6)(a) yn gymwys fel pe bai "or of regulations or orders made under it" wedi ei hepgor.

RHAN 3

Addasu adran 34 o'r Ddeddf (terfynau amser ar gyfer erlyniadau)

4. Mae adran 34 yn gymwys fel pe bai "regulation 11(2)" wedi ei roi yn lle "section 35(2) below".

SCHEDULE 3 Regulation 16

Modification of provisions of the Act

PART 1

Modification of section 21 of the Act (defence of due diligence)

1. Section 21 applies as if—

(a) in subsection (2), the reference to an offence under section 14 or 15 were to an offence under these Regulations, and

(b) in subsection (4)(b), the references to "sale or intended sale" were to include "promotion or presentation".

PART 2

Modification of section 32 of the Act (powers of entry)

2. Section 32(1)(a) applies as if "or of regulations or orders made under it" were omitted.

3. Section 32(6)(a) applies as if "or of regulations or orders made under it" were omitted.

PART 3

Modification of section 34 of the Act (time limits for prosecutions)

4. Section 34 applies as if for "section 35(2) below" there were substituted "regulation 11(2)".

RHAN 4

Addasu adran 35 o'r Ddeddf (cosbi troseddau)

5. Mae adran 35(1) yn gymwys fel pe bai'r cyfeiriad at adran 33(1) yn gyfeiriad at yr adran honno fel y'i cymhwysir gan y Rheoliadau hyn.

6. Mae adran 35(2) yn gymwys fel pe bai "an offence under section 33(2) as applied by these Regulations" wedi ei roi yn lle "any other offence under this Act".

PART 4

Modification of section 35 of the Act (punishment of offences)

5. Section 35(1) applies as if the reference to section 33(1) were to that section as applied by these Regulations.

6. Section 35(2) applies as if for "any other offence under this Act" there were substituted "an offence under section 33(2) as applied by these Regulations".

RHAN 5

Addasu adran 37 o'r Ddeddf (apelau i lys ynadon)

7. Mae pennawd adran 37 yn gymwys fel pe bai'r cyfeiriad at "or sheriff" wedi ei hepgor.

8. Mae adran 37(1) yn gymwys fel pe bai'r canlynol wedi ei roi yn lle'r testun presennol—

> "(1) Any person who is aggrieved by the decision of an authorised officer of a food authority to serve an improvement notice under regulation 10 may appeal to a magistrates' court."

9. Mae adran 37(3) yn gymwys fel pe bai "or an appeal to such a court for which provision is made by regulations under Part II of this Act" wedi ei hepgor.

10. Mae adran 37(5) yn gymwys fel pe bai—

(a) "or (4)" wedi ei hepgor, a

(b) ym mharagraff (b), "in the case of an appeal under subsection (1)(a) above, that period or" wedi ei hepgor.

11. Mae adran 37(6) yn gymwys fel pe bai—

(a) "or (4)" wedi ei hepgor, a

(b) ym mharagraff (a), "or to the sheriff" wedi ei hepgor.

PART 5

Modification of section 37 of the Act (appeals to magistrates' court)

7. The heading to section 37 applies as if the reference to "or sheriff" were omitted.

8. Section 37(1) applies as if there were substituted—

> "(1) Any person who is aggrieved by the decision of an authorised officer of a food authority to serve an improvement notice under regulation 10 may appeal to a magistrates' court."

9. Section 37(3) applies as if "or an appeal to such a court for which provision is made by regulations under Part II of this Act" were omitted.

10. Section 37(5) applies as if—

(a) "or (4)" were omitted, and

(b) in paragraph (b), "in the case of an appeal under subsection (1)(a) above, that period or" were omitted.

11. Section 37(6) applies as if—

(a) "or (4)" were omitted, and

(b) in paragraph (a), "or to the sheriff" were omitted.

RHAN 6

Addasu adran 39 o'r Ddeddf (apelau yn erbyn hysbysiadau gwella)

12. Mae adran 39 yn gymwys fel pe bai—

(a) y cyfeiriadau at hysbysiad gwella yn gyfeiriadau at hysbysiad gwella a gyflwynwyd o dan reoliad 10, a

(b) yn is-adran (3), "for want of prosecution" wedi ei hepgor.

PART 6

Modification of section 39 of the Act (appeals against improvement notices)

12. Section 39 applies as if—

(a) the references to an improvement notice were to an improvement notice served under regulation 10, and

(b) in subsection (3), "for want of prosecution" were omitted.

RHAN 7

Addasu adran 49 o'r Ddeddf (ffurf a dilysu dogfennau)

13. Mae adran 49(4) yn gymwys fel pe bai "and of any regulations and orders made under it" wedi ei hepgor.

PART 7

Modification of section 49 of the Act (form and authentication of documents)

13. Section 49(4) applies as if "and of any regulations and orders made under it" were omitted.

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