Explanatory Memorandum to the Specified Products from China (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2012

This Explanatory Memorandum has been prepared by the Food Standards Agency (FSA) and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Member's Declaration

In my view the Explanatory Memorandum gives a fair and reasonable view of the expected impact of **The Specified Products from China (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2012**.

Lesley Griffiths AM
Minister for Health and Social Services

11 January 2012

1. Description

This Statutory Instrument will strengthen existing EU–wide restrictions aimed at avoiding the import of rice and rice products from China for use as food or animal feed that contain unauthorised Genetically Modified Organisms (GMOs). This will be done by amending the Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

The Instrument breaches the 21-day rule. Member States are required under European law to transpose and implement the provisions of Commission Decision 2011/884/EU into domestic legislation by the 12 January 2012. The Decision was only published in the Official Journal on 23 December 2011, hence the need to breach the 21 day rule.

Parallel legislation in England, Scotland and Northern Ireland will also come into force no later than 12 January 2012. The breach of the 21-day rule is required to avoid a gap in import controls between the repeal of the current controls and the implementation of the new decision and the associated risk of food and animal feed containing unauthorised GMOs entering the UK and being released for free circulation with the EU.

3. Legislative Background

The Welsh Ministers make the following Regulations in exercise of the powers conferred to them by Section 2 (2) of the European Communities Act 1972.

This Instrument is subject to the negative procedure.

4. Purpose and Intended Effect of the Legislation

This Instrument will require that consignments of rice and rice products originating from China are accompanied by an analytical report confirming the absence of GM rice material, based on a specific testing method. Sampling and analysis of all relevant consignments on entry to the EU is also required and satisfactory results must be obtained before they can be released for free circulation within the EU. Member States will be required to submit quarterly reports of the analytical results to the Commission to enable them to monitor the effectiveness of the Decision.

Currently, the FSA is not, aware of any specific health implications for consumers who eat rice or rice products consisting of or containing the GMOs mentioned above. However the FSA considers that food or animal feed containing GM material that is unauthorised in the EU should be deemed "unsafe" within the respective meanings of that term in Regulation (EC) 178/2002 (General Food Law). As such, food and feed business operators are

required to inform enforcement authorities if such products have left their possession, initiate their withdrawal and recall them if they have reached consumers.

5. Consultation and Regulatory Impact Assessment

The Food Standards Agency (FSA) has informally consulted interested parties in Wales by means of a letter enclosing a copy of the draft Regulations for comment. Previously the FSA held a meeting with interested parties on 15 December 2011 to discuss the proposed new legislation, its implementation and its impact. The FSA will use the data provided by interested parties to complete a Regulatory Impact Assessment which will then form the basis of the full public consultation which will be commenced after the Regulations have come into force. The information from this public consultation will be used to inform discussions in Europe when the Commission Decision is reviewed in six months.