

## **Explanatory Memorandum to the Food Additives (Wales) (Amendment) and the Extraction Solvents in Food (Amendment) (Wales) 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 Food Additives (Wales) (Amendment) and the Extraction Solvents in Food (Amendment) (Wales) Regulations 2012.

### **Lesley Griffiths AM**

Minister for Health and Social Services

27 April 2012

## **1. Description**

This Statutory Instrument will provide for the execution and enforcement of three European Commission Regulations which a) establish an EU list of food additives, b) establish an EU list of food additives approved for use in food additives, food enzymes, food flavourings and nutrients; and c) set down specifications for the food additives in those lists. The instrument will also rectify an omission from the Extraction Solvents in Food (Amendment) (Wales) Regulations 2011 to complete the references to *Dimethyl ether* as a permitted extraction solvent in the schedules to the Extraction Solvents in Food Regulations 1993.

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

None

## **3. Legislative Background**

The powers enabling this instrument to be made are conferred by section 16(1) (a) and (f), 17 (1) and (2) and 48(1) of the Food Safety Act 1990 as read with paragraph 1A of Schedule 2 to the European Communities Act 1972

This Instrument is subject to the negative procedure.

## **4. Purpose and Intended Effect of the Legislation**

This instrument is necessary to clarify and update the enforcement provisions in the Food Additives (Wales) Regulations 2009 and to provide for the execution and enforcement of three directly applicable EU Regulations, which will amend Regulation (EC) No. 1333/2008 (“Regulation 1333/2008”) on food additives and the associated transitional arrangements.

Commission Regulation (EU) No. 1129/2011 (“Regulation 1129/2011”) will amend Annex II to Regulation 1333/2008, establishing an EU list of food additives. Commission Regulation (EU) No. 1130/2011 (“Regulation 1130/2011”) will amend Annex III to Regulation 1333/2008 establishing and EU list of food additives approved for use in food additives, food enzymes, food flavourings and nutrients. Regulations (EU) No. 231/2012 will set down specifications for food additives in the EU list at Annex II and Annex III to Regulation 1333/2008 established by Regulations 1129/2011 and 1130/2011.

This instrument will also amend The Extraction Solvents in Food Regulations 1993 as amended, in order to rectify an omission from the Extraction Solvents in Food (Amendment) (Wales) Regulations 2011, which implemented the provisions of Directive 2010/59/EU, on extraction solvents used in foodstuffs and food ingredients so as to include reference to *Dimethyl ether*, in the list of permitted extraction solvents in Part 1 of Schedule 1 to the 1993 Regulations. *Dimethyl ether is already indicated in Schedule 2 of those Regulations for preparation of defatted animal protein products.*

## **5. Consultation**

From 15 December 2011 to 16 February 2012 the Food Standards Agency held a nine-week public consultation on these Regulations. There were no responses to the consultation in Wales. There was one response to the consultation in England, questioning whether guidance or training would be required within the laboratory sector.

## **6. Regulatory Impact Assessment**

A Regulatory Impact assessment has not been prepared for the Instrument, as there are no identifiable costs to consumers, businesses or enforcement authorities associated with the implementation of the new Regulations.

The Regulations will not impose any new burden on Government or enforcement officers. The FSA believes that the proposal will have no impact on race, gender or disability equality.