WELSH STATUTORY INSTRUMENTS

2008 No. 781 (W.80)

AGRICULTURE, WALES

FOOD WALES

The Rice Products from the United States of America (Restriction on First Placing on the Market) (Wales) Regulations 2008

Made - - - -	*18 March 2008*
Laid before the National Assembly for Wales - -	*19 March 2008*
Coming into force - -	*20 March 2008*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F1].

The Welsh Ministers have been designated for the purposes of that section in relation to measures relating to food (including drink) including the primary production of food and measures relating to feed produced for or fed to food-producing animals [F2].

F1 1972 c. 68

F2 S.I. 2005/1971. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by sections 58 and 59 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

Title, commencement and application

1.—(1) The title of these Regulations is the Rice Products from the United States of America (Restriction on First Placing on the Market) (Wales) Regulations 2008 and they come into force on 20 March 2008.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"authorised officer" ("*swyddog awdurdodedig*"), in relation to a feed authority or a food authority, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under these Regulations;

"the Commission Decision" ("*Penderfyniad y Comisiwn*") means Commission Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism "LL RICE 601" in rice products [F3] as last amended by Commission Decision 2008/162/EC amending Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism "LL RICE 601" in rice products [F4];

"feed" ("*bwyd anifeiliaid*") has the meaning given to it in Article 3(4) of Regulation 178/2002;

"feed authority" ("*awdurdod bwyd anifeiliaid*") means the authority required by **[**[F5]section 67(1A)**]** of the Agriculture Act 1970 [F6] to enforce that Act within its area or as the case may be district;

"food" ("*bwyd*") has the meaning given to it in Article 2 of Regulation 178/2002;

"first placing on the market" ("*ei osod gyntaf ar y farchnad*") has the meaning that it bears in the Commission Decision;

"food authority" ("*awdurdod bwyd*") has the meaning that it bears by virtue of section 5(1A) of the Food Safety Act 1990 [F7];

"rice product" ("*cynnyrch reis*") means any rice product referred to in the table in Article 1 of the Commission Decision that originates from the United States of America; and

"Regulation 178/2002" ("*Rheoliad 178/2002*") means 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 [F8] as last amended by Commission Regulation (EC) No. 575/2006 amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the Permanent Scientific Panels of the European Food Safety Authority [F9].

(2) Where any functions under the Food Safety Act 1990 are assigned—

(a) by an order under section 2 of the Public Health (Control of Disease) Act 1984 [F10], to a port health authority; or

(b) by an order under section 6 of the Public Health Act 1936 [F11], to a joint board for a united district,

any reference in these Regulations to a food authority is to be construed, so far as relating to those functions, as a reference to the authority to whom they are so assigned.

F3 OJ No. L244, 7.9.2006, p.27.
F4 OJ No. L52, 27.2.2008, p.25.
F5 Words in reg. 2(1) substituted (17.7.2008) by The Rice Products from the United States of America (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2008 (S.I. 2008/1646), regs. 1(2), **2(a)**
F6 1970 c. 40.
F7 1990 c. 16. Section 5(1A) was inserted by the Local Government (Wales) Act 1994 (c. 19), **section 22(3)** and Schedule 9, paragraph 16(1).
F8 OJ No. L31, 1.2.2002, p.1.
F9 OJ No. L100, 8.4.2006, p.3.
F10 1984 c. 22.
F11 1936 c. 49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.

Restriction on first placing on the market of rice products

3.—(1) The first placing on the market of any rice product is prohibited unless—

(a) the conditions specified in Article 2(1) of the Commission Decision are complied with in relation to that product; and

(b) arrangements have been made to ensure compliance with the conditions specified in Article 2(2) of the Commission Decision in relation to that product.

(2) Any person who knowingly contravenes the prohibition in paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding three months or to both.

Enforcement

4.—(1) It is the duty of each feed authority to execute and enforce these Regulations within its area [F12]... in relation to feed.

(2) It is the duty of each food authority to execute and enforce these Regulations within its area in relation to food.

(3) For the purposes of enabling the feed authority to exercise its duty under paragraph (1) and the food authority to exercise its duty under paragraph (2), an authorised officer of the authority concerned must ensure that the requirements referred to in paragraph (4) are adhered to.

(4) The requirements are those specified in —

(a) Article 2 of the Commission Decision (which is concerned with the conditions under which consignments of rice products may first be placed on the market);

(b) the first sentence of Article 3 (1) of that Decision (which is concerned with control measures relating to rice products presented for importation or already on the market); and

(c) Article 4 of that Decision (which is concerned with contaminated consignments).

(5) Each feed authority and each food authority must give such assistance and information to the Welsh Ministers and the Food Standards Agency as they may reasonably request in connection with the execution and enforcement of these Regulations.

F12 Words in reg. 4(1) omitted (17.7.2008) by virtue of The Rice Products from the United States of America (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2008 (S.I. 2008/1646), regs. 1(2), **2(b)**

Application of various provisions of the Food Safety Act 1990

5. The following provisions of the Food Safety Act 1990 apply for the purposes of these Regulations with the modification that any reference in those provisions to that Act or Part thereof is to be construed as a reference to these Regulations —

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

(b) section 21 (defence of due diligence) [F13], with the modification that subsections (2) to (4) apply in relation to an offence under regulation 3(2) as they apply in relation to an offence under section 14 or 15, that in subsections (2)(a) and (3)(b) the references to "food" are to be deemed to be references to feed or food and that in subsection (4)(b) the references to "sale or intended sale" are to be deemed to be references to "first placing on the market";

(c) section 32 (powers of entry), with the modification that in subsection (1) the reference to "an enforcement authority" is to be deemed to be a reference to a feed authority or a food authority, the references to "the authority's area" are to be deemed to be references to the authority's area [F14]...and the reference to "a food authority" is to be deemed to be a reference to a feed authority or a food authority;

(d) section 33(1) (obstruction etc. of officers);