

## **Explanatory Memorandum to the Food (Jelly Mini-Cups) (Emergency Control) (Wales) (Revocation) Regulations 2011**

This Explanatory Memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

### **Member's Declaration**

In my view the Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food (Jelly Mini-Cups) (Emergency Control) (Wales) (Revocation) Regulations 2011. I am satisfied that the benefits outweigh any costs.

**Gwenda Thomas AM**  
Deputy Minister for Social Services

2 March 2011

# **Explanatory Memorandum to the Food (Jelly Mini-Cups) (Emergency Control) (Wales) (Revocation) Regulations 2011**

## **1. Description**

This Statutory Instrument revokes legislation banning the use of certain additives in a type of jelly confectionary known as jelly mini-cups. The revocation takes account of the repeal of EU emergency legislation which is no longer required as the ban has been made permanent by Commission Directive 2010/69/EU. The legislation being revoked is the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009 and the Food (Jelly Mini-Cups) (Emergency Control) (Wales) (Amendment) Regulations 2010.

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

None

## **3. Legislative Background**

The Welsh Ministers are designated under SI 2005/1971 in relation to measures relating to food for the purposes of section 2(2) of the European Communities Act 1972 and, under that provision, have the power to make the proposed regulations for the purpose of implementing Commission Directive 2010/69/EU.

This instrument is subject to the negative procedure.

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

Jelly mini-cup sweets which contain food additives derived from seaweed and/or certain gums have been banned in the EU since 2004 because of concerns that they pose a choking hazard. This type of jelly confectionery is of a firm consistency, contained in semi-rigid mini-cups or mini-capsules intended to be ingested in a single bite by exerting pressure on the mini-cups or mini-capsules to project the confectionery into the mouth.

Commission Decision 2004/374/EC suspended the placing on the market and import of jelly mini-cups containing 16 specified gel forming food additives derived from seaweed and certain gums. The Commission Decision was implemented in Wales by the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009. In 2006, European Parliament and Council Directive 95/2/EC made provision in relation to food additives. The Annex to that Directive is amended by Commission Directive 2010/69/EU to make provision to maintain the ban on certain food additives in jelly mini-cups, Directive 2010/69/EU also repealing Commission Decision 2004/374/EC.

As Commission Decision 2004/374/EC is repealed, it is necessary to revoke the national implementing legislation: the Food (Jelly Mini-Cups) (Emergency Control) (Wales) Regulations 2009; and the Food (Jelly Mini-Cups)

(Emergency Control) (Wales) (Amendment) Regulations 2010 (which corrected some inconsistencies in the English and Welsh texts of the Regulations).

## **5. Consultation**

The Food Standards Agency held a shortened public consultation from 18 January 2011 to 16 February 2011. No stakeholders in Wales responded to the consultation and there were no changes required to the SI as drafted.

## **6. Regulatory Impact Assessment**

A Regulatory Impact Assessment has not been prepared to accompany these Regulations as there are no changes to the current controls and therefore no identified costs to consumers, businesses or enforcement authorities associated with implementation of these new Regulations.

These Regulations will not impose any significant new burden on Government or enforcement officers. Rural areas and members of the ethnic communities, or of any particular racial group are unaffected by these proposals. Charities and voluntary organisations are unaffected by these proposals.