

## **Explanatory Memorandum to the Marketing of Fresh Horticultural Produce (Wales) (Amendment) Regulations 2011**

This Explanatory Memorandum has been prepared by the Food Policy and Strategy Unit of the Department for Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

### **Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Marketing of Fresh Horticultural Produce (Wales) (Amendment) Regulations 2011

Alun Davies, Deputy Minister for Agriculture, Food, Fisheries and European Programmes

DATE

## **1. Description**

European law imposes requirements on those who market fruit and vegetables in the EU (e.g. in relation to issues such as quality, packaging and labelling such as country of origin). Whilst there are existing regulations in this area, an amendment to those regulations is needed because the instrument in which the requirements are set out in European law has changed. Without the change brought about by this instrument, there would not be a means of enforcing the obligations against those who might breach them.

The amendment Regulations are needed so as to make reference, in the principal 2009 Regulations, to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 (which lays down detailed rules for the application of Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors). The amendment is required so as to be able to enforce the new Commission Implementing Regulation.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

These Regulations are made in exercise of powers contained in section 2(2) of the European Communities Act 1972. The Welsh Ministers were designated to exercise these powers, in relation to the EU Common Agricultural Policy, by virtue of the European Communities (Designation) (No. 5) Order 2010, SI 2010/2690.

As the regulations make only minor technical amendments to reflect a change in European law and make no change of substance, this instrument is made under the negative procedure

## **3. Legislative background**

The instrument gives effect to Commission Implementing Regulation (EC) No 543/2011 which lays down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing of fresh horticultural produce.

Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products makes provisions for EU marketing standards, including for the fruit and vegetable sector. Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of the Council Regulation in respect of the fruit and vegetables and processed fruit and vegetables sectors sector is made enforceable by this instrument.

## **4. Purpose & intended effect of the legislation**

This instrument is being made using the powers under the European Communities Act 1972. The Regulations amend the 2009 Regulations without making any change to their effect. Therefore, they are not a preparation, evaluation or revision of food law within the meaning of Article 9 of Regulation 178/2002, and it is not necessary to consult under that Regulation, and there is no change of substance.

Section 80 of the Government of Wales Act 2006 places Welsh Ministers under a statutory duty to give effect to EU obligations where they have the powers to do so. Welsh Ministers must give effect to the relevant EU legislation. Welsh Ministers are required to create a statutory enforcement mechanism to give effect to Commission Regulation (EC) No. 1249/2008. In the rest of the UK this was achieved in 2010.

The Marketing of Fresh Horticultural Produce (Wales) (Amendment) Regulations 2011 will make the necessary changes to the 2009 Regulations in Wales.

## **5. Impact**

This instrument applies in relation to Wales. Introducing this Instrument will bring Wales up to date and in line with the rest of the UK and avoid any distortion issues.

There is no impact on charities or voluntary bodies, or the industry at large. No significant impact on the public sector is anticipated.

An Impact Assessment has not been prepared for this instrument.

## **6. Consultation**

The draft Regulations amend the 2009 Regulations without making any change to their effect. Therefore, they are not a preparation, evaluation or revision of food law within the meaning of Article 9 of Regulation 178/2002, and it is not necessary to consult under that Regulation, and there is no change of substance.