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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2012 Rhif 64 (Cy.15)**

**2012 No. 64 (W.15)**

**AMAETHYDDIAETH, CYMRU**

**AGRICULTURE, WALES**

**BWYD, CYMRU**

**FOOD, WALES**

Rheoliadau Cynhyrchion  
Penodedig o Tsieina (Cyfyngiad ar  
eu Rhoi Gyntaf ar y Farchnad)  
(Cymru) (Diwygio) 2012

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

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

*(This note is not part of the Regulations)*

Mae'r Rheoliadau hyn, sy'n dod i rym ar 12 Ionawr 2012, yn diwygio Rheoliadau Cynhyrchion Penodedig o Tsieina (Cyfyngiad ar eu Rhoi Gyntaf ar y Farchnad) (Cymru) 2008 (O.S. 2008/1080 (Cy.114)) ("Rheoliadau 2008") er mwyn rhoi ar waith Benderfyniad Gweithredu'r Comisiwn 2011/884/EU ar fesurau brys ynghylch reis sydd wedi ei addasu'n enetig heb awdurdod mewn cynhyrchion reis sy'n tarddu o Tsieina a hwnnw'n Benderfyniad sy'n diddymu Penderfyniad 2008/289/EC (OJ Rhif L343, 23.12.2011, t.140) ("Penderfyniad y Comisiwn"). Mae Penderfyniad y Comisiwn yn darparu i gyfyngiadau ar fewnforio a oedd gynt yn gymwys i reis Bt 63 a addaswyd yn enetig fod yn gymwys, gydag addasiadau, i'r holl reis a addaswyd yn enetig heb awdurdod.

These Regulations, which come into force on 12 January 2012, amend the Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008 (S.I. 2008/1080 (W.114)) ("the 2008 Regulations") in order to implement Commission Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC (OJ No. L343, 23.12.2011, p.140) ("the Commission Decision"). The Commission Decision provides for import restrictions that previously applied to Bt 63 genetically modified rice to apply, with modifications, to all unauthorised GM rice.

Yn benodol, mae'r Rheoliadau hyn yn diwygio Rheoliadau 2008 drwy —

In particular these Regulations amend the 2008 Regulations by —

- (a) mewnosod yn rheoliad 2 ddiffiniad o Benderfyniad y Comisiwn a diwygio, ychwanegu neu ddileu diffiniadau penodol eraill (*rheoliad 2(2)*);
- (b) diwygio rheoliad 3(1), drwy osod amodau y caniateir i gynhyrchion penodedig (reis a chynhyrchion reis sy'n tarddu o Tsieina neu a anfonwyd oddi yno) gael eu rhoi ar y farchnad odanynt (*rheoliad 2(3)*);

- (a) inserting in regulation 2 a definition of the Commission Decision and amending, adding or removing certain other definitions (*regulation 2(2)*);
- (b) amending regulation 3(1), by imposing conditions under which specified products (rice and rice products originating in or consigned from China) may be placed on the market (*regulation 2(3)*);

- (c) hepgor rheoliad 4, a oedd yn ei gwneud yn ofynnol i weithredwyr hysbysu'r Asiantaeth Safonau Bwyd am ganlyniadau profion penodol (*rheoliad 2(4)*);
- (ch) diwygio rheoliad 5(4), sy'n nodi'r darpariaethau ym Mhenderfyniad y Comisiwn y mae'n rhaid i swyddog gorfodi awdurdod bwyd anifeiliaid neu awdurdod bwyd sicrhau y cydymffurfir â hwy (*rheoliad 2(5)*);
- (d) mewnosod fel rheoliad 7 newydd ddarpariaeth i roi ar waith y gofyniad yn Erthygl 8 o Benderfyniad y Comisiwn bod rhaid i'r holl gostau sy'n ganlyniad i'r rheolaethau swyddogol ac i unrhyw fethiant â chydymffurfio gael eu hysgwyddo gan y gweithredwr busnes bwyd neu fusnes bwyd anifeiliaid o dan sylw (*rheoliad 2(7)*), ac
- (dd) mewnosod fel rheoliad 8 newydd ddarpariaeth sy'n rhoi ar waith y trefniadau trosiannol a gynhwysir yn Erthygl 9 o Benderfyniad y Comisiwn (*rheoliad 2(7)*).

Mae asesiad effaith rheoleiddiol yn cael ei baratoi ac fe'i cyhoeddir cyn gynted ag y bydd wedi ei gwblhau. Oherwydd natur brys yr offeryn hwn, nid oedd yr Asiantaeth Safonau Bwyd yn gallu cwblhau'r asesiad effaith rheoleiddiol cyn i'r offeryn ddod i rym.

- (c) omitting regulation 4, which required operators to notify the Food Standards Agency of certain test results (*regulation 2(4)*);
- (d) amending regulation 5(4), which identifies the provisions of the Commission Decision that an enforcement officer of a feed or food authority must ensure are observed (*regulation 2(5)*);
- (e) inserting as new regulation 7 a provision to implement the requirement in Article 8 of the Commission Decision that all costs resulting from the official controls and from any non-compliance must be borne by the food or feed business operator concerned (*regulation 2(7)*), and
- (f) inserting as new regulation 8 a provision implementing the transitional arrangements contained in Article 9 of the Commission Decision (*regulation 2(7)*).

A regulatory impact assessment is in preparation and will be published as soon as completed. Due to the emergency nature of this instrument, the Food Standards Agency was unable to complete the regulatory impact assessment before the coming into force of the instrument.

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**Rheoliadau Cynhyrchion  
Penodedig o Tsieina (Cyfyngiad ar  
eu Rhoi Gyntaf ar y Farchnad)  
(Cymru) (Diwygio) 2012**

**The Specified Products from China  
(Restriction on First Placing on the  
Market) (Wales) (Amendment)  
Regulations 2012**

*Gwnaed* 11 Ionawr 2012  
*Gosodwyd gerbron Cynulliad  
Cenedlaethol Cymru* 12 Ionawr 2012  
*Yn dod i rym* 12 Ionawr 2012

*Made* 11 January 2012  
*Laid before the National  
Assembly for Wales* 12 January 2012  
*Coming into force* 12 January 2012

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddwyd iddynt gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(1).

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(1).

Cafodd Gweinidogion Cymru eu dynodi at ddibenion yr adran honno o ran mesurau sy'n ymwneud â bwyd (gan gynnwys diod) gan gynnwys cynhyrchu sylfaenol o ran bwyd a mesurau sy'n ymwneud â bwyd anifeiliaid a gynhyrchir ar gyfer anifeiliaid sy'n cynhyrchu bwyd neu y porthir hwy ag ef(2).

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(2).

**Enwi a chychwyn**

1. Enw'r Rheoliadau hyn yw Rheoliadau Cynhyrchion Penodedig o Tsieina (Cyfyngiad ar eu Rhoi Gyntaf ar y Farchnad) (Cymru) (Diwygio) 2012 a deuant i rym ar 12 Ionawr 2012.

**Title and commencement**

1. The title of these Regulations is the Specified Products from China (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2012 and they come into force on 12 January 2012.

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(1) 1972 p.68.

(2) Gorchymyn y Cymunedau Ewropeaidd (Dynodi) (Rhif 2) 2005 (O.S. 2005/1971) yw'r gorchymyn dynodi perthnasol. Dynododd erthygl 4 o'r Gorchymyn hwnnw Gynulliad Cenedlaethol Cymru a gyfansoddwyd gan Ddeddf Llywodraeth Cymru 1998 (p.38) ("y Cynulliad") at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â'r materion a bennir yn Atodlen 3 i'r Gorchymyn hwnnw sy'n cynnwys mesurau sy'n ymwneud â bwyd (gan gynnwys diod) gan gynnwys cynhyrchu sylfaenol o ran bwyd a mesurau sy'n ymwneud â bwyd anifeiliaid a gynhyrchir ar gyfer anifeiliaid sy'n cynhyrchu bwyd neu y porthir hwy ag ef. Mae swyddogaethau sy'n arferadwy gan y Cynulliad o dan y Gorchymyn hwnnw wedi eu breinio bellach yng Ngweinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 a pharagraff 30(2)(b) o Atodlen 11 iddi.

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(1) 1972 c.68.

(2) The relevant designation order is the European Communities (Designation) (No.2) Order 2005 (S.I. 2005/1971). Article 4 of that order designated the National Assembly for Wales constituted by the Government of Wales Act 1998 (c.38) ("the Assembly") for the purposes of section 2(2) of the European Communities Act 1972 in relation to the matters specified in Schedule 3 to that order which includes 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. Functions exercisable by the Assembly under that order are now vested in the Welsh Ministers by virtue of section 162 and paragraph 30(2)(b) of Schedule 11 to the Government of Wales Act 2006 (c.32).

**Diwygio Rheoliadau Cynhyrchion Penodedig o Tsieina (Cyfyngiad ar eu Rhoi Gyntaf ar y Farchnad) (Cymru) 2008**

2.—(1) Mae Rheoliadau Cynhyrchion Penodedig o Tsieina (Cyfyngiad ar eu Rhoi Gyntaf ar y Farchnad) (Cymru) 2008(1) wedi eu diwygio yn unol â pharagraffau (2) i (7).

(2) Yn rheoliad 2 (dehongli) —

(a) ym mharagraff (1)—

(i) yn lle'r diffiniad o "Penderfyniad y Comisiwn" rhodder y diffiniad a ganlyn—

"ystyr "Penderfyniad y Comisiwn" (*the Commission Decision*) yw Penderfyniad Gweithredu'r Comisiwn 2011/884/EU ar fesurau brys ynghylch reis a addaswyd yn enetig heb awdurdod mewn cynhyrchion reis sy'n tarddu o Tsieina a hwnnw'n Benderfyniad sy'n diddymu Penderfyniad 2008/289/EC(2);"

(ii) hepgorer y diffiniad o "rhoi gyntaf ar y farchnad";

(iii) yn y man priodol yn ôl trefn yr wyddor mewnosoder y diffiniad a ganlyn —

"mae i "rhoi ar y farchnad" yr ystyr a roddir i "*placing on the market*" yn Erthygl 3.8 o Reoliad 178/2002;" a

(iv) yn y diffiniad o "cynnyrch penodedig", yn lle "yr Atodiad" rhodder "Atodiad I"; a

(b) mewnosoder y paragraff canlynol yn union ar ôl paragraff (2) —

"(3) Mae i unrhyw ymadrodd a ddefnyddir ym Mhenderfyniad y Comisiwn ac y defnyddir yr ymadrodd Saesneg cyfatebol yn y Rheoliadau hyn yr un ystyr yn y Rheoliadau hyn â'r ystyr sydd i'r ymadrodd Saesneg cyfatebol hwnnw ym Mhenderfyniad y Comisiwn."

(3) Yn lle'r pennawd i reoliad 3 (cyfyngiad ar roi cynhyrchion penodedig gyntaf ar y farchnad) a pharagraff (1) ohono, rhodder y canlynol —

**"Cyfyngiad ar roi cynhyrchion penodedig ar y farchnad**

3.—(1) Gwaherddir rhoi unrhyw gynnyrch penodedig ar y farchnad—

(a) oni chydymffurfiwyd ag amodau a bennir yn Erthygl 4 o Benderfyniad y Comisiwn mewn perthynas â'r cynnyrch; a

(b) oni bai bod llwyth y cynnyrch penodedig wedi ei rannu yn dilyn rheolaeth swyddogol, a bod copi dilysedig o'r dystysgrif iechyd a'r adroddiad

**Amendment of the Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008**

2.—(1) The Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008(1) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (interpretation) —

(a) in paragraph (1) —

(i) for the definition of "the Commission Decision" substitute the following definition —

"the Commission Decision" (*Penderfyniad y Comisiwn*) means Commission Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC(2);"

(ii) omit the definition of "first placing on the market";

(iii) after the definition of "operator" insert the following definition —

"placing on the market" has the meaning given to it in Article 3.8 of Regulation 178/2002; and

(iv) in the definition of "specified product", for "the Annex" substitute "Annex I"; and

(b) insert the following paragraph immediately after paragraph (2) —

"(3) Any expression used in the Commission Decision and in these Regulations has the same meaning in these Regulations as it bears in the Commission Decision."

(3) For the heading to and paragraph (1) of regulation 3 (restriction on first placing on the market of specified products), substitute the following —

**"Restriction on placing on the market of specified products**

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

(a) the conditions specified in Article 4 of the Commission Decision have been complied with in relation to the product; and

(b) where the consignment of the specified product has been split following official control, an authenticated copy of the

(1) O.S. 2008/1080 (Cy.114).

(2) OJ Rhif L343, 23.12.2011, t.140.

(1) S.I. 2008/1080 (W.114).

(2) OJ No. L343, 23.12.2011, p.140.

dadansoddiadol yn dod gyda phob rhan o'r llwyth rhanedig."

(4) Mae rheoliad 4 (hysbysu am ganlyniadau cadarnhaol) wedi ei hepgor.

(5) Yn lle paragraff (4) o reoliad 5 (gorfodi) rhodder y canlynol —

"(4) Y gofynion yw'r rhai a bennir yn —

(a) Erthygl 5 o Benderfyniad y Comisiwn (sy'n ymwneud â'r amodau y caniateir i gynhyrchion penodedig gael eu rhoi ar y farchnad odanynt, y rheolaethau swyddogol sydd i'w cyflawni a'r mesurau sydd i'w cymryd parthed llwythi nad ydynt yn cydymffurfio); a

(b) brawddeg gyntaf Erthygl 7 o'r Penderfyniad hwnnw (sy'n ymwneud â rheoli rhannu llwythi)."

(6) Ym mharagraff (b) o reoliad 6 (cymhwyso darpariaethau amrywiol Deddf Diogelwch Bwyd 1990), yn lle "rhoi gyntaf ar y farchnad" rhodder "rhoi ar y farchnad".

(7) Mewnosoder y rheoliadau canlynol yn union ar ôl rheoliad 6 —

#### **"Treuliau sy'n deillio o reolaethau swyddogol**

7. Bydd treuliau a godir gan awdurdod bwyd anifeiliaid neu awdurdod bwyd ar weithredwr yn unol ag Erthygl 8 o Benderfyniad y Comisiwn yn daladwy gan y gweithredwr ar archiad ysgrifenedig yr awdurdod.

#### **Darpariaeth drosiannol**

8. Nid yw'r gwaharddiad yn rheoliad 3(1) yn gymwys mewn perthynas â unrhyw gynnyrch penodedig a adawodd Tsieina cyn 1 Chwefror 2012 ar yr amod —

(a) bod y gwaith samplu a dadansoddi wedi ei wneud yn unol ag Erthygl 4(3) o Benderfyniad y Comisiwn; a

(b) na fyddai rhoi'r cynnyrch ar y farchnad wedi bod yn dramgwydd o dan y Rheoliadau hyn fel yr oeddent yn sefyll yn union cyn i Reoliadau Cynhyrchion Penodedig o Tsieina (Cyfyngiad ar eu Rhoi Gyntaf ar y Farchnad) (Cymru) (Diwygio) 2012 ddod i rym."

health certificate and the analytical report accompanies each part of the split consignment."

(4) Regulation 4 (notification of positive results), is omitted.

(5) For paragraph (4) of regulation 5 (enforcement) substitute the following —

"(4) The requirements are those specified in —

(a) Article 5 of the Commission Decision (which is concerned with the conditions under which specified products may be placed on the market, the official controls to be carried out and the measures to be taken with regard to non-compliant consignments); and

(b) the first sentence of Article 7 of that Decision (which is concerned with the control of splitting of consignments)."

(6) In paragraph (b) of regulation 6 (application of various provisions of the Food Safety Act 1990), for "first placing on the market" substitute "placing on the market".

(7) Insert the following regulations immediately after regulation 6 —

#### **" Expenses arising from official controls**

7. Expenses charged by a feed authority or a food authority to an operator pursuant to Article 8 of the Commission Decision will be payable by the operator on the written demand of the authority.

#### **Transitional provision**

8. The prohibition in regulation 3(1) does not apply in relation to any specified product which left China prior to 1st February 2012 provided that—

(a) the sampling and analysis have been conducted in accordance with Article 4(3) of the Commission Decision; and

(b) the placing on the market of the product would not have constituted an offence under these Regulations as they stood immediately before the coming into force of the Specified Products from China (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2012."

*Lesley Griffiths*

Y Gweinidog dros Iechyd a Gwasanaethau  
Cymdeithasol, un o Weinidogion Cymru

The Minister for Health and Social Services, one of the  
Welsh Ministers

11 Ionawr 2012

11 January 2012

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