

# Constitutional Affairs Committee

CA(3)-05-11

## CA532: The Plastic Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2011

### Procedure: Negative

These Regulations amend the Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009, as previously amended by S.I. 2010/2288 ("the principal Regulations") in order to provide for the implementation in Wales of transitional arrangements contained in Commission Directive 2011/8 EU amending Directive 2002/72/EC as regards the restriction of use of Bisphenol A in plastic infant feeding bottles, ("the new Commission Directive"). These Regulations amend the principal Regulations to provide for the implementation of the transitional arrangements in the new Commission Directive.

### Technical Scrutiny

The following point is identified for reporting under S.O. 15.2 in respect of this instrument:-

These Regulations specify the exercise by the Welsh Ministers of the power contained within sub-section (2) (a) of section 26 of the Food Safety Act 1990 ("the 1990 Act"), which imposes a requirement upon persons carrying on any activity to which the regulations apply to keep and produce records and provide returns. There is no use of the power in sub-section (2) (a) within these Regulations and so this power is superfluous to the requirements of these Regulations.

Standing Order 15.2 (vi) that it appears to be defective or it fails to fulfil statutory requirements.

### Merits Scrutiny

No points are identified for reporting under Standing Order 15.3 in respect of this instrument:

### Legal Advisers

#### Constitutional Affairs Committee

February 2011

### Government response to the point identified by the legal advisers to the committee

Point raised by Legal Advisers

1. The Legal Advisers identify the following point for reporting under S.O 15.2:

"These Regulations specify the exercise by the Welsh Ministers of the power contained within sub-section (2) (a) of section 26 of the Food Safety Act 1990, which imposes a requirement upon persons carrying on any activity to which the regulations apply to keep and produce records and provide returns. There is no use of the power in sub-section (2) (a) within these Regulations and so this power is superfluous to the requirements of these Regulations. "

2. It is accepted that the reference to sub-section 26(2)(a) in these Regulations (while appropriate in the principal regulations which they amend) was superfluous for the reason given by the Legal Advisers. As this does not affect the substance of these Regulations, it is not considered that any further action is required.