



**Cynulliad Cenedlaethol Cymru**  
**The National Assembly for Wales**

**ADRODDIAD GAN Y PWYLLGOR DEDDFAU**

**LEGISLATION COMMITTEE REPORT**

**The Food (Peanuts from China) (Emergency Control) (Wales) Regulations 2002**

These regulations impose controls on the import of peanuts from China.

**Standing Order 11.5**

Under Commission Decision 2002/79/EC import of the products in question can only be through one of the points of entry listed in Annex II to that Decision.

As none of the listed points of entry are in Wales it is understood that, subject to paragraph (3), regulation 3 is intended to prohibit import into Wales. This is on the basis that products imported through one of the listed points of entry in England and delivered to a recipient in Wales would, quite rightly, be regarded as imported into England and thus subject to the controls in the equivalent England regulations (SI 2002/774).

On this basis regulation 3(2) makes it clear that the prohibition on import into Wales does not prevent the transportation into Wales of products lawfully imported into England.

Attention is drawn, however, to paragraph (1) of regulation 3 (and the references to it in paragraphs (3) and (5)) which appears to imply that import into Wales is possible if either sub-paragraph (a) or (b) is satisfied. Whilst it has been explained that paragraph (1) was included to ensure that products illegally imported into other UK countries could not be brought into Wales, the implication that "import" is permissible under paragraph (1) appears to conflict with the complete prohibition on import imposed by paragraph (2).

It is understood that amending legislation is in contemplation to rectify this, and this course is commended.

## **General Observations**

### **Explanatory Note**

The apparent contradiction between paragraphs (1) and (2) of regulation 3 is repeated in the Explanatory Note which suggests (by the use of the words “except where” in the opening wording of the second paragraph) that importation into Wales is permissible.

Additionally, the reference to the transportation into Wales of products lawfully imported through a specified point of entry, the note misleadingly gives the impression that it only applies in the circumstances set out in paragraph (b).

### **Regulation 5(2)**

The Joint Committee on Statutory Instruments have indicated that where a statutory instrument exercises a power to apply provisions of an enactment subject to modifications, it is not appropriate to provide for this by setting out a modified text of the applied provisions (Session 1993/94, 28<sup>th</sup> Report, paragraph 2).

It would thus have been more satisfactory for regulation 5(2) to have identified the specific modifications. The benefit to the user of having a revised text could then have been achieved by setting out that text in a schedule.

Mick Bates AM  
**Chair, Legislation Committee**

16 April 2002