

Explanatory Memorandum

THE RICE PRODUCTS FROM THE UNITED STATES OF AMERICA (RESTRICTION ON FIRST PLACING ON THE MARKET) (WALES) REGULATIONS 2008

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

Description

These Regulations implement the emergency controls set out in Commission Decision 2006/601/EC, as amended (the Commission Decision) to deal with the import of long grain rice from the USA which contain the unauthorised genetically modified LLRICE 601.

The Decision removes the mandatory requirement for all consignments of US long grain rice to be sampled and tested at the point of import into the EU. At the same time, the certification requirements for import of US long grain rice are updated so that the analytical tests carried out by US exporters are comparable with those used by enforcement bodies in the European Union.

Matters of special interest to the Subordinate Legislation Committee

The Regulations come into force on 20 March 2008. They therefore do not comply with the 21 day rule. This is because the Commission Decision was notified to Member States on 26 February 2008 and comes into force upon notification. Implementation of the Commission Decision requires the Regulations to be brought into force as soon as possible. The UK would be in breach of a Community requirement in not having the relevant prohibition in effect. The Leader of the House has written to the Presiding Officer to notify him.

Legislative Background

The powers enabling this instrument to be made are contained in section 2(2) of the European Communities Act 1972. They have been designated by virtue of the European Communities (Designation) (No 2) Order 2005 (SI 2005/1971) to Welsh Ministers in respect of 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

Purpose and intended effect of the legislation

In mid August 2006 the US authorities notified the EC that traces of unauthorised LLRICE601 had been detected in samples of commercial rice seed and may have entered the food and feed supply. The level of the unauthorised rice seeds detected in the contaminated samples is very low, around 0.1%. At the end of August the Commission introduced emergency measures to prevent the importation of unauthorised GM material into the EU. The commission adopted and published a

Commission Decision which was amended at the end of August. The measures were introduced by a declaration under Official Food and Feed Control legislation. The Decision specified that any consignment of long grain rice from the USA can only enter the EU market if it has been analysed and certified to contain no detectable materials from LLRICE601.

The Commission sought further information from Bayer CropScience, who had developed the LLRICE601 variety, including details of the detection method and reference materials (i.e. samples of the rice variety). The LLRICE601 variety contains a gene conferring herbicide tolerance. EFSA's GMO Panel evaluated a safety dossier from Bayer CropScience and issued a statement on 15 September. It concluded that, while the data were insufficient to conduct the full risk assessment that would be required for authorisation of LLRICE601, the consumption of imported long grain rice containing trace levels of LLRICE601 is not likely to pose an imminent safety concern to humans or animals.

As regards long grain rice and rice products from USA already on the market, Member States were, and still are, required to take appropriate measures, including random sampling and analysis to verify the absence of LLRICE 601.

The Commission adopted amendments to the existing Decision on 6 November 2006 (Commission Decision 2006/601/EC) requiring all long grain rice from USA to be sampled and re-tested according to a defined protocol at the port of entry to the EU. This followed concerns of the Commission that unauthorised GMLLRICE601 could still be present in some batches of bulk long grain rice originating in USA.

This Commission Decision was further amended in February 2008 in the light of new information from the USA, where the industry had implemented a control programme that aimed to avoid the presence of contaminated rice in the 2007 harvest. The US testing methods had also been amended to match the sensitivity of the protocol used by enforcement authorities in the EU. As a result, the certification requirements were updated and the requirement for repeat testing at the point of import into the EU was removed. These amendments are contained in Commission Decision 2008/601/EC , which was notified to Member States on 26 February 2008.

As this is an emergency control measure, there has been no public consultation on the draft statutory instrument. The rice trade have been sent a copy of the Decision.

Implementation

It is intended that these Regulations should come into force on 20 March 2008. Failure to implement the legislation with immediate effect would lead to inconsistency of enforcement across the UK and would not remove a potential lifting of a burden on business. If the UK did not implement this Decision it would be in breach of a Community requirement. Parallel legislation has already come into force in England, on 7 March 2008; similarly in Scotland on 7 March 2008 and in Northern Ireland on 12 March 2008.

Consultation

Given the urgency with which this new SI has had to be made, there has been insufficient time for any public consultation. Relevant stakeholders will be advised of the change by the Food Standards Agency and information will also be placed on the Agency's website.

Regulatory Impact Assessment

Due to the immediacy of the Regulations a Regulatory Impact Assessment has not been prepared on this occasion. Further the Agency does not consider the SI will have any impact on charities or voluntary bodies. .