

## **EXECUTIVE NOTE**

### **THE RICE PRODUCTS FROM THE UNITED STATES OF AMERICA (RESTRICTION ON FIRST PLACING ON THE MARKET) (SCOTLAND) REGULATIONS 2008 SSI 2008/87**

The above instrument is made under powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf. The instrument is subject to negative resolution procedure.

#### **Issue**

1. These Regulations implement the emergency control measures 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 contains the unauthorised genetically modified LLRICE601.
2. The Regulations will be made on 5 March 2008 and will come into force on 7 March 2008. They will therefore breach the 21-day rule. The reason for the breach is that the Commission Decision was notified to Member States on 26 February and comes into force on notification. Implementation of the Commission Decision requires the Regulations to be brought into force as soon as possible.

#### **Legislative Background**

3. The instrument is made and laid under section 2(2) of the European Communities Act 1972.
4. These Regulations implement Commission Decision 2006/601/EC as amended by Commission Decision 2006/754/EC and by Commission Decision 2008/162/EC on emergency measures regarding the non-authorised genetically modified LLRICE601. The measures introduced by Commission Decision 2008/162/EC are to be reviewed by 26 August 2008 at the latest.

#### **Extent**

6. The Regulations extend to Scotland only. Parallel legislation is being made in England, Wales and Northern Ireland.

#### **Policy Background**

7. 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%. Later that month 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 2006. The

measures were introduced in Scotland 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 LLRICE610.

8. 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 2006. 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.
9. 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 LLRICE601. Results which demonstrate the presence of LLRICE601 must be notified to the Commission through the Rapid Alert System for Food and Feed.
10. The Commission adopted amendments to the existing Decision on 6 November 2006 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. These amendments were contained in Commission Decision 2006/754/EC.
11. The 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 2008/162/EC, which was notified to Member States on 26 February 2008.
12. As this is an emergency control measure, there has been no public consultation on the draft statutory instrument. The rice trade has been sent a copy of the Decision.

### **Impact**

13. A Regulatory Impact Assessment has not been prepared for this instrument, since this is an emergency measure to transpose a Commission Decision. The measure is not expected to impact on businesses, charities, or voluntary bodies.

**FOOD STANDARDS AGENCY SCOTLAND**

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