

**EXPLANATORY MEMORANDUM TO
THE CURD CHEESE (RESTRICTIONS ON PLACING ON THE MARKET)
(ENGLAND) REGULATIONS 2006**

2006 No. 2787

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations implement the emergency control measures set out in a Commission Decision “prohibiting the placing on the market of curd cheese manufactured in a dairy establishment in the United Kingdom.” The Decision has not yet been published in the Official Journal of the European Communities.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Regulations will be made on 18 October 2006 and will come into force immediately. They will therefore breach the 21-day rule. The reason for the breach is that the Commission Decision was notified to Member States on 16 October and comes into force on notification. Implementation of the Commission Decision therefore requires the Regulations to be brought into force as soon as possible.

4. **Legislative Background**

- 4.1 The instrument is made and laid under section 2(2) of the European Communities Act 1972.
- 4.2 These Regulations implement the Commission Decision. The Commission Decision is to be reviewed as soon as new information is made available showing that there is no risk to human health, in particular on the basis of measures taken by the UK authorities.

5. **Extent**

- 5.1 This instrument applies to England.
- 5.2 There will be separate but parallel legislation in Scotland, Wales and Northern Ireland.

6. **European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1 The Commission Decision requires Member States to prohibit the placing on the market of all curd cheese manufactured by Bowland Dairy Products Limited, located at Fulshaw Head Farm, Barrowford, Lancashire, BB9 6RA and approved under the number UK PE 23 and to detain and dispose of existing supplies.
- 7.2 Relevant Ministers have been regularly briefed about developments in the affair since June 2006 when the European Commission's Food and Veterinary Office inspected the above premises and found practices of which they disapproved. Some practices were modified following an audit by the Food Standards Agency, and others were stopped altogether. The company resumed production under terms acceptable to the FSA, however a re-inspection by the FVO at the end of September failed to satisfy them.
- 7.3 The Commission therefore moved to adopt the Commission Decision with qualified majority support. It has immediate effect and the Instrument implements it. There has been media interest over the weekend 7/8 October, following a press release by the European Commission, however this policy area generally has not stimulated public interest.
- 7.4 As this is an emergency control measure, there has been no public consultation on the draft Statutory Instrument.

8. Impact

- 8.1 A Regulatory Impact Assessment and Sustainability Assessment have not been prepared for this instrument as it imposes emergency controls.

9. Contact

- 9.1 Chris Pratt at the Food Standards Agency, telephone 020 7276 8982 or e-mail chris.pratt@foodstandards.gsi.gov.uk can answer any queries regarding the instrument.