

2012 No. 3

AGRICULTURE

FOOD

**The Specified Products from China (Restriction on First Placing
on the Market) (Amendment) Regulations (Northern Ireland)
2012**

Made - - - - - *10th January 2012*

Coming into operation - - - - - *12th January 2012*

The Department of Health, Social Services and Public Safety(a) makes the following Regulations in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972(b).

The Department of Health, Social Services and Public Safety has been designated for the purposes of that section in relation to 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(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Specified Products from China (Restriction on First Placing on the Market) (Amendment) Regulations (Northern Ireland) 2012 and come into operation on 12th January 2012.

(2) The Interpretation Act (Northern Ireland) 1954(d) applies to these Regulations as it applies to an Act of the Assembly.

Amendment of the Specified Products from China (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2008

2.—(1) The Specified Products from China (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2008(e) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of “the Commission Decision” substitute —

(a) Formerly the Department of Health and Social Services; See S.I. 1999/283 (N.I.1) Article 3(6)
(b) 1972 c.68
(c) S.I. 2003/2901
(d) 1954 c.33 (N.I.)
(e) S.R. 2008 No. 171

“the Commission Decision” means Commission Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC(a);”,

(ii) omit the definition of “first placing on the market”,

(iii) after the definition of “operator” insert —

““placing on the market” has the meaning given to it in Article 3.8 of Regulation 178/2002;”, and

(iv) in the definition of “specified product”, for “the Annex” substitute “Annex I”; and

(b) insert immediately after paragraph (1) —

“(1A) Any expression used in the Commission Decision and in these Regulations has the same meaning in these Regulations as it bears in the Commission Decision.”.

(3) For the heading to and paragraph (1) of regulation 3 (restriction on first placing on the market of specified products), substitute —

“Restriction on placing on the market of specified products

3.—(1) The placing on the market of any specified product is prohibited unless —

(a) the conditions specified in Article 4 of the Commission Decision have been complied with in relation to the product; and

(b) where the consignment of the specified product has been split following official control, an authenticated copy of the health certificate and the analytical report accompanies each part of the split consignment.”.

(4) Regulation 4 (notification of positive results) is omitted.

(5) For regulation 5(4) (enforcement) substitute —

“(4) The requirements are those specified in —

(a) Article 5 of the Commission Decision (which is concerned with the conditions under which specified products may be placed on the market, the official controls to be carried out and the measures to be taken with regard to non-compliant consignments); and

(b) the first sentence of Article 7 of that Decision (which is concerned with the control of splitting of consignments).”.

(6) In regulation 6(b) (application of various provisions of the Food Safety (Northern Ireland) Order 1991), for “first placing on the market” substitute “placing on the market”.

(7) Insert immediately after regulation 6—

“Expenses arising from official controls

7. Expenses charged by the Department or a district council to an operator pursuant to Article 8 of the Commission Decision shall be payable by the operator on the written demand of the Department or district council.

Transitional provision

8. The prohibition in regulation 3(1) does not apply in relation to any specified product which left China prior to 1st February 2012 provided that —

(a) the sampling and analysis has been conducted in accordance with Article 4(3) of the Commission Decision; and

(a) OJ No. L343, 23.12.2011, p.140

- (b) the placing on the market of the product would not have constituted an offence under these Regulations as they stood immediately before the coming into operation of the Specified Products from China (Restriction on First Placing on the Market) (Amendment) Regulations (Northern Ireland) 2012.”

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 10th January 2012.



L Devlin

A senior officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Specified Products from China (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2008 (S.R. 2008 No. 171) (“the 2008 Regulations”) in order to implement Commission Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC (OJ No. L343, 23.12.2011, p.140) (“the Commission Decision”). The Commission Decision provides for import restrictions that previously applied to Bt 63 genetically modified rice to apply, with modifications, to all unauthorised GM rice.

In particular these Regulations amend the 2008 Regulations by —

- (a) inserting in regulation 2 a definition of the Commission Decision and amending, adding or removing certain other definitions (*regulation 2(2)*);
- (b) amending regulation 3(1), by imposing the conditions under which specified products (rice and rice products originating in or consigned from China) may be placed on the market (*regulation 2(3)*);
- (c) omitting regulation 4, which required operators to notify the Food Standards Agency of certain test results (*regulation 2(4)*);
- (d) amending regulation 5(4), which identifies the provisions of the Commission Decision that an enforcement officer of the Department or district council must ensure are observed (*regulation 2(5)*);
- (e) inserting as new regulation 7 a provision to implement the requirement in Article 8 of the Commission Decision that all costs resulting from the official controls and from any non-compliance must be borne by the food or feed business operator concerned (*regulation 2(7)*); and
- (f) inserting as new regulation 8 a provision implementing the transitional arrangements contained in Article 9 of the Commission Decision (*regulation 2(7)*).

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