

EXECUTIVE NOTE

The Rice Products (Restriction on First Placing on the Market) (Scotland) Regulations 2006 (S.S.I. 2006/542)

1. The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure and will apply to Scotland. There will be separate but parallel legislation for England, Wales and Northern Ireland.
2. These Regulations implement the emergency control measures set out in Commission Decision 2005/754/EC (the Commission Decision) to deal with the import of long grain rice from the USA which contain the unauthorised genetically modified LLRICE601.
3. The Regulations will be made on 8 November 2006 and will come into force on 10 November 2006. They will therefore breach the 21-day rule. The reason for the breach is that the Commission Decision was notified to Member States on 6 November and comes into force on notification. Implementation of the Commission Decision requires the Regulations to be brought into force as soon as possible.

Policy Background

4. In mid August 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.
5. 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.
6. As regards long grain rice and rice products from USA, already on the market, Member States 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.
7. The Commission adopted amendments to the existing Decision on 6 November 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 are contained in Commission Decision 2006/754/EC, which was notified to Member States on 6 November 2006.

8. The two Commission Decisions in August 2006 were implemented under Official Food and Feed Control legislation by means of declarations made under the Official Food and Feed Control (Scotland) Regulations 2005. Following the announcement by EFSA of its conclusions on the safety of LLRICE601 lawyers have advised that a declaration is not a suitable basis for implementing these EC requirements.

Consultation

9. 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 as soon as it was received by the Agency.

Financial Impact

10. A Regulatory Impact Assessment has not been prepared for this instrument as it concerns emergency controls. However, there could be additional costs to some traders importing long grain rice from the USA, as they will be responsible for providing an analytical report to demonstrate the absence of LLRICE601 from consignments, and thus for the cost of the sampling and analysis work. There could also be additional costs to local authority trading standards departments, which are responsible for enforcement of the measure, but these will depend on the levels of sampling undertaken of material which is already in circulation. It is not known what any of these costs might be.

Food Standards Agency Scotland
7 November 2006