

EXECUTIVE NOTE

THE BOVINE PRODUCTS (RESTRICTION ON PLACING ON THE MARKET) (SCOTLAND) (NO. 2) AMENDMENT REGULATIONS 2007 SSI 2007/338

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. The Bovine Products (Restriction on Placing on the Market) (Scotland) (No. 2) Regulations 2005 (SSI 2005/586) give effect to a prohibition on the placing on the market of certain products derived from cattle born or reared within the UK before 1st August 1996. This instrument amends SSI 2005/586, to update certain references to Community legislation contained within it.
2. Decision 2007/411/EC was published in the Official Journal on 14 June 2007 and notified to the UK authorities on the same date. The UK (as Member State) is obliged to bring the Statutory Instrument into force once the Decision has been notified. Otherwise the UK (as Member State) would be in breach of a Community requirement in not having the relevant prohibition on cattle born or reared within the UK before 1st August 1996 in effect. The instrument breaches the 21-day rule for this reason.

Legislative Background

3. SSI 2005/586 gave effect in relation to Scotland to Article 1.1 of Commission Decision 205/598/EC, which provided that certain products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 could not be placed on the market.
4. Commission Decision 2005/598/EC has now been repealed and replaced by Commission Decision 2007/411/EC. Article 1.1 of Commission Decision 2007/411/EC is in identical terms to Article 1.1 of Commission Decision 2005/598/EC.
5. The repeal and replacement of Commission Decision 2005/598/EC by Commission Decision 2007/411/EC has, however, resulted in a need to amend SSI 2005/586 because it is now Commission Decision 2007/411/EC which provides the legal basis as a matter of Community law for the prohibition described in paragraph 3 and this requires to be reflected in the domestic transposition of the rule.

Extent

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

Policy Background

7. The “over thirty months” (OTM) rule, which, with limited exceptions, prohibited the sale for human consumption of meat from cattle aged over thirty months at slaughter, was introduced in the UK in 1996 to strengthen the protection of public health from BSE.
8. No other EU Member State has operated a ban on OTM cattle. However, since January 2001, Member States have been required by EU legislation to subject OTM cattle slaughtered for human consumption to testing for BSE and to permit only those receiving a negative test result into the food supply. These requirements are contained in Regulation (EC) No. 999/2001, which provides for comprehensive EU-wide rules for controlling BSE.
9. Following a review by the Food Standards Agency (FSA), the UK decided in 2005 to replace the OTM rule by a ban on cattle born or reared in the UK before August 1996, thereby allowing UK OTM cattle born on or after 1st August 1996 back into the human food supply subject to a negative BSE test result.
10. This new policy was (like the OTM rule itself) inconsistent with the applicable EU law. The UK therefore requested action at EU level to legitimise a continued ban on cattle born before August 1996. In response, within the powers delegated to it under Regulation 999/2001, the Commission adopted Decision 2005/598/EC of 2 August 2005. Article 1.1 of the Decision prohibits the placing on the market of products derived from bovine animals born or reared within the UK before 1st August 1996.
11. Decision 2005/598/EC has now been replaced by Decision 2007/411/EC. The reason for the change is to include in the Decision a new derogation from the prohibition in Article 1.1 which changes the requirements as to the way in which hides from UK cattle born before August 1996 used for leather production are handled. This new derogation falls within the Agriculture policy responsibilities of the Scottish Executive. The prohibition in Article 1.1 itself remains unchanged.
12. Given the urgency with which the new SSI has had to be made, there has been insufficient time for any public consultation on it. However, the lack of consultation is not considered likely to have been detrimental to stakeholder interests as the changes it makes will not have a practical effect upon the nature of the ban on use of certain products in food. An “interested party” letter about the change will be sent to relevant stakeholders and posted on the FSA’s web site.

Impact

13. A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on businesses, charities, or voluntary bodies.

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