

**EXPLANATORY MEMORANDUM TO**  
**THE BOVINE PRODUCTS (RESTRICTION ON PLACING ON THE**  
**MARKET) (ENGLAND) (NO. 2) (AMENDMENT) REGULATIONS 2007**

**2007 No.1755**

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

**2. Description**

2.1 The Bovine Products (Restriction on Placing on the Market) (England) (No. 2) Regulations 2005 (S.I. 2005/3068) give effect to a prohibition on the placing on the market of certain products derived from cattle born or reared within the UK before 1<sup>st</sup> August 1996. This instrument amends S.I. 2005/3068, to update certain references to Community legislation contained within it.

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

3.1 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 is obliged to bring the S.I. into force once the Decision has been notified. Otherwise the UK would be in breach of a Community requirement in not having the relevant prohibition on cattle born or reared within the UK before 1<sup>st</sup> August 1996 in effect. The instrument breaches the 21-day rule for this reason.

**4. Legislative Background**

4.1 S.I. 2005/3068 gave effect in relation to England to Article 1.1 of Commission Decision 2005/598/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.

4.2 Commission Decision 2005/598/EC has now been repealed and replaced by Commission Decision 2007/411/EC.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.

4.3 The repeal and replacement of Commission Decision 2005/598/EC by Commission Decision 2007/411/EC has however resulted in a need to amend S.I. 2005/3068 in order to substitute a reference to Commission Decision 2007/411/EC for the reference to Decision 2005/598/EC that appears in it. This is because key words that appear in the prohibition on placing certain bovine products on the market that is described in para 2.1 above are currently defined by reference to words that appear in Commission Decision 2005/598/EC. Those key words now need to

be defined by reference to words that appear in Commission Decision 2007/411/EC.

- 4.4 The new instrument also updates references to certain other pieces of Community legislation in S.I. 2005/3068.

## **5. Extent**

- 5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

Not applicable

## **7. Policy background**

- 7.1 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.
- 7.2 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.
- 7.3 Following a review by the FSA, the Government 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 1<sup>st</sup> August 1996 back into the human food supply subject to a negative BSE test result.
- 7.4 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 pre-August-1996-born cattle. 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 1<sup>st</sup> August 1996.
- 7.5 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 to allow the hides from UK cattle born before August 1996 to be used for leather production. This new derogation falls within Defra’s policy responsibilities. The prohibition in Article 1.1 itself remains unchanged.
- 7.6 Given the urgency with which the new SI 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

the drafting of the S.I., as the changes it makes are only of definition and have no substantive effect. An “interested party” letter about the change will be sent to relevant stakeholders and posted on the FSA’s web site.

## **8. Impact**

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

## **9. Contact**

David Carruthers at the Food Standards Agency Tel: 020 7276 8305 or e-mail: david.carruthers@foodstandards.gsi.gov.uk can answer any queries regarding the instrument.