

**EXPLANATORY MEMORANDUM TO**  
**THE FEED (CORN GLUTEN FEED AND BREWERS GRAINS) (EMERGENCY**  
**CONTROLS) (ENGLAND) (REVOCATION) REGULATIONS 2007**

**2007 No. 3007**

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

**2. Description**

2.1 This instrument transposes Commission Decision 2007/157/EC of 7 March 2007, repealing Commission Decision 2005/317/EC of 18 April 2005, which introduced emergency controls on imports from the USA of maize products potentially containing or derived from the unauthorised GM line Bt10.

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

3.1 None.

**4. Legislative Background**

4.1 Commission Decision 2005/317/EC -- which was transposed into law in England by the Feed (Corn Gluten Feed and Brewers Grains) (Emergency Controls) (England) Regulations 2005 -- required importers to provide a certificate of analysis to show that consignments from the USA of two maize products (corn gluten feed and brewers grains) were free of Bt10 GM maize before they were placed on the market. The Bt10 GM line has not been authorised for use in the EU. In January 2007 the Commission reviewed the position and adopted Commission Decision 2007/157/EC repealing the emergency controls. This measure came into force on 8 March 2007, the date of its publication in the Official Journal on the European Union.

4.2 Action to implement Commission Decision 2007/157/EC in the UK had to be deferred because of the timing of elections in Scotland and Wales. The then MS(PH) agreed that, to ensure a common coming-into-force date for the measure in all parts of the UK, public consultation should be deferred until after the Scottish and Welsh elections in May 2007. However, the public consultation did not launch until July because of the delays in forming new governments in Scotland and Wales following the outcome of the relevant elections.

**5. Territorial Extent and Application**

5.1 This instrument applies to England. Separate but parallel legislation will be made for 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, a statement is not required.

## **7. Policy background**

### *Policy*

7.1 Bt10 is an unauthorised GM variety. However, in March 2005 the European Commission was advised by the US authorities that Bt10 maize seed had been supplied to some US farmers in error. As a result it was possible that some exports of maize products to the EU contained the Bt10 variety.

7.2 Commission Decision 2005/317/EC required Member States to undertake random sampling and analysis of consignments from the USA of corn gluten feed and brewers grains to verify the absence of Bt10. Only one instance of Bt10 entering the EU was detected, in May 2005, when the consignment in question was determined to have been shipped from the USA before the results of its analysis had become available. The Decision was reviewed at the February 2007 meeting of the Standing Committee on the Food Chain and Animal Health, when it was noted that the USA had taken action to ensure that Bt10 would not be further propagated or distributed. It was therefore agreed that Commission Decision 2005/317/EC could be repealed, and Commission Decision 2007/157/EC was adopted.

### *Consultation*

7.3 The public consultation in England took place over a three week period in July and August 2007, and involved a range of stakeholders including industry trade associations, enforcement bodies, professional associations, environmental consumer groups and others. This short consultation period was chosen with the agreement of the then MS(PH) because the transposing Regulations would simply give effect to a Commission Decision repealing emergency controls the need for which had demonstrably passed. There was one response to the consultation. This was from a feed industry trade association supporting the revocation of the emergency controls and did not warrant amendment of the draft Regulations.

### *Guidance*

7.4 The Food Standards Agency does not consider that guidance on this new measure is necessary as its provisions are largely self-explanatory.

## **8. Impact**

8.1 An Impact Assessment is not attached to this memorandum. This is because the Regulations remove rather than impose an administrative burden on merchants and importers, who will no longer be required to provide a certificate of analysis, and on enforcement authorities who will no longer be required to check that imported consignments are accompanied by a certificate. An Impact Assessment is not therefore considered necessary.

## **9. Contact**

Tim Franck or Joseph Nicholas at the Food Standards Agency can answer queries regarding the instrument. Telephone: 020-7276-8471 or 020-7276-8462, e-mail: [tim.franck@foodstandards.gsi.gov.uk](mailto:tim.franck@foodstandards.gsi.gov.uk) or [joseph.nicholas@foodstandards.gsi.gov.uk](mailto:joseph.nicholas@foodstandards.gsi.gov.uk)

## TRANSPOSITION TABLE

<b>Commission Decision 2007/157/EC of 7 March 2007 repealing Decision 2005/317/EC on emergency measures regarding the non-authorised genetically modified organism Bt10 in maize products (OJ No L68, 8.3.2007, p. 8)</b>			
<b>Article</b>	<b>Purpose</b>	<b>Implementation</b>	<b>Responsibility</b>
Article 1	To repeal Commission Decision 2005/317/EC	Regulation 2	S of S for Health through implementing Regulations