

2008 No. 87

AGRICULTURE

FOOD

**The Rice Products from the United States of America
(Restriction on First Placing on the Market) (Scotland)
Regulations 2008**

<i>Made</i> - - - -	<i>5th March 2008</i>
<i>Laid before the Scottish Parliament</i>	<i>6th March 2008</i>
<i>Coming into force</i> - -	<i>7th March 2008</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Rice Products from the United States of America (Restriction on First Placing on the Market) (Scotland) Regulations 2008, and come into force on 7th March 2008.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“authorised officer” means a person authorised in accordance with regulation 4;

“the Commission Decision” means Commission Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism “LL RICE 601” in rice products(b);

(a) 1972 c.68. The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, in so far as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). In so far as not so transferred, and insofar as relating to food (including drink) including the primary production of food, that function was transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849) and insofar as relating to certain animal feedingstuffs and feed additives for use in animal nutrition, that function was transferred by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304).

(b) O.J. No. L 244, 7.9.2006, p.27, as amended by Commission Decision 2006/754/EC amending Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism “LL RICE 601” in rice products (O.J. No. L 306, 7.11.06, p.17) and by Commission Decision 2008/162/EC amending Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism “LL RICE 601” in rice products (O.J. No. L 52, 27.2.08, p.25).

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(a);

“rice products” means any rice product referred to in the table in Article 1 of the Commission Decision that originates from the United States of America.

(2) For the purposes of these Regulations any expression used both in these Regulations and in the Commission Decision has the meaning it bears in the Commission Decision.

Restriction on first placing on the market of rice products

3.—(1) No person shall first place on the market any rice product unless—

- (a) the conditions specified in Article 2(1) of the Commission Decision are complied with in relation to that product; and
- (b) arrangements have been made to ensure compliance with the conditions specified in Article 2(2) of the Commission Decision in relation to that product.

(2) Any person who knowingly contravenes the prohibition in paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding three months or to both.

Enforcement

4.—(1) Each local authority shall execute and enforce these Regulations and the Commission Decision within its area.

(2) A local authority may authorise in writing any person (whether or not an officer of that authority) to act in matters arising under these Regulations.

(3) An authorised officer shall have the same powers as an authorised officer of an enforcement authority under section 32 (powers of entry) of the Food Safety Act 1990(b).

(4) Each local authority shall give such assistance and information to the Scottish Ministers and the Food Standards Agency as they may reasonably request in connection with the execution and enforcement of these Regulations.

Recovery of costs

5. The costs mentioned in Article 5 of the Commission Decision shall be payable by the food business operator to the local authority and shall be recoverable by the local authority as a debt from the food business operator concerned.

Application of various provisions of the Food Safety Act 1990

6.—(1) The following provisions of the Food Safety Act 1990 shall apply for the purposes of these Regulations with the modification that any reference in those provisions to that Act or Part thereof shall be construed as a reference to these Regulations—

- (a) section 20 (offences due to fault of another person);
- (b) section 21 (defence of due diligence), with the modification that subsections (2) to (4) shall apply in relation to an offence under regulation 3(2) as they apply in relation to an offence under section 14 or 15, that in subsections (2)(a) and (3)(b) the references to “food” shall be deemed to be references to feed or food and that in subsection (4)(b) the references to “sale or intended sale” shall be deemed to be references to “first placing on the market”;
- (c) section 33 (obstruction etc. of officers);
- (d) section 35(1) to (3) (punishment of offences), in so far as it relates to offences under section 33 as applied by sub-paragraph (c);

(a) 1994 c.39.

(b) 1990 c.16.

- (e) section 36 (offences by bodies corporate);
- (f) section 36A (offences by Scottish partnerships)(a); and
- (g) section 44 (protection of officers acting in good faith), with the modification that the references to “food authority” shall be deemed to be references to “local authority”.

(2) For the purposes of these Regulations the provisions mentioned in paragraph (1) apply to feed as they apply to food.

Revocation

7. The Rice Products (Restriction on First Placing on the Market) (Scotland) Regulations 2006(b) are revoked.

SHONA ROBISON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
5th March 2008

(a) Section 36A was inserted by the Food Standards Act 1999 (c.28), Schedule 5, paragraph 16.
(b) S.S.I. 2006/542.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which extend to Scotland only, implement Commission Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism “LL RICE 601” in rice products (O.J. No. L 244, 7.9.2006, p.27) as amended by Commission Decision 2006/754/EC amending Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism “LL RICE 601” in rice products and by Commission Decision 2008/162/EC amending Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified organism “LL RICE 601” in rice products (O.J. No. L 52, 27.2.2008, p.25). They revoke and replace the Rice Products (Restriction on First Placing on the Market) (Scotland) Regulations 2006 (S.S.I. 2006/542).

These Regulations—

- (a) provide that no person shall first place on the market any “rice product” (defined in regulation 2(1)), except where—
 - (i) it is accompanied by—
 - (aa) a statement from the food business operator responsible for the consignment that the product only contains rice, from the 2007 or a subsequent harvest, that was subject to the plan of the USA Rice Federation aiming to remove “LL Rice 601” from the US export channels, and
 - (bb) and the original of an analytical report issued by a laboratory referred to in Annex II to the Commission Decision confirming that the product does not contain the genetically modified rice “LL RICE 601”; that report must itself be accompanied by an official document issued by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture in accordance with the protocol described in that Annex, and
 - (ii) specified requirements for split consignments are complied with (regulation 3(1));
- (b) provide that a person who knowingly contravenes that prohibition is guilty of an offence and prescribe penalties for that offence (regulation 3(2));
- (c) provide for their enforcement (regulation 4);
- (d) provide for the recovery of costs incurred from issuing the accompanying documents pursuant to article 2(2) of the Commission Decision (regulation 5); and
- (e) apply with modifications certain provisions of the Food Safety Act 1990 for the purposes of the Regulations (regulation 6).

No regulatory impact assessment has been prepared in relation to these Regulations.

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