

## **Explanatory memorandum to the Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) (Revocation) Regulations 2007**

This Explanatory Memorandum has been prepared by the Food Standards Agency Wales and is laid before the National Assembly for Wales.

### **Description**

These Regulations (“the Regulations”) provide for the execution and enforcement of 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.

### **Matters of special interest to the National Assembly’s Legislation Committee**

None.

### **Legislative Background**

The powers enabling the Regulations to be made are contained in s 2 of the European Communities Act 1972. Welsh Ministers are designated for the purpose of section 2 (2) of the European Communities Act 1972 in relation to food under SI 2005/1971, measures relating to the control and regulation of the placing on the market of genetically modified organisms under SI 2003/2901. These Regulations are subject to the negative procedure. A transposition table showing how the measure is being implemented is at Annex 1.

### **Purpose and intended effect of the legislation**

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.

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 It was therefore agreed that Commission Decision 2005/317/EC could be repealed, and Commission Decision 2007/157/EC was adopted.

Commission Decision 2005/317/EC was implemented in Wales by virtue of The Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) Regulations 2005. This 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.

### **Implementation**

It is intended that these Regulations should come into force on 30 November 2007. Separate legislation will simultaneously come into force in England, Scotland and Northern Ireland. Commission Decision 2007/157/EC is directly applicable in all EU Member States. Failure to implement these Regulations in Wales would lead to inconsistency in the law, and lead to infraction procedures being brought against the UK.

### **Consultation**

The public consultation in Wales took place over a three week period in July and August 2007, and involved a range of over 80 stakeholders including industry trade associations, enforcement bodies, professional associations, environmental consumer groups and others, such as anti-GM lobby groups. The Deputy Minister for Social Services agreed that the public consultation in Wales could be limited to three weeks on the grounds that the transposing Regulations were merely giving formal effect to a Commission Decision, the need for which no longer applied. There were no responses to the consultation exercise from Welsh stakeholders. There was only one response to the consultation in England, supporting the revocation of the emergency controls and did not warrant amendment of the draft Regulations.

These Regulations apply to Wales. Separate but parallel legislation will be made for England, Scotland and Northern Ireland.

### **Regulatory Impact Assessment**

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.

## TRANSPOSITION TABLE

<b>Commission Decision 2007/157/EC of 7 March 2007 repealing Decision 2005/317/EC on emergency measures regarding the non-authorized 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	Deputy Minister for Social Services through implementing Regulations