EXPLANATORY MEMORANDUM TO

THE FOOD (EMERGENCY CONTROL) (REVOCATION) (ENGLAND) REGULATIONS 2006

2006 No. 2289

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1.1 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 These Regulations revoke the following Emergency Control Regulations:

The Food (Peanuts from China) (Emergency Control) (England) (No. 2) Regulations 2002 [SI 2002/2350]

The Food (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) (England) (No. 2) Regulations 2002 [SI 2002/2351]

The Food (Brazil Nuts) (Emergency Control) (England) Regulations 2003 [SI 2003/1722]

The Food (Pistachios from Iran) (Emergency Control) (England) Regulations 2003 [SI 2003/1956]

The Food (Peanuts from Egypt) (Emergency Control) (England) Regulations 2003 [SI 2003/2074]

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

3.1 None

4. Legislative Background

4.1 The above Emergency Control Regulations implement Commission Decisions imposing special conditions on the import into the EU of certain foodstuffs imported from certain third countries. These are necessary because of the risk of contamination of these foodstuffs by aflatoxins. Many of the special conditions for the import of these foodstuffs are the same and therefore, in the interest of clarity and harmonisation, they have been consolidated into a single Decision [Commission Decision 2006/540/EC]. The Commission Decision applies from 1 October 2006.

4.2 The consolidated Decision has been enacted into English law by a Declaration made under regulation 33 of the Official Feed and Food Controls (England) Regulations 2006, which provides that declarations may suspend or impose conditions on the import of food that is likely to constitute a serious risk to public health.

4.3 It is therefore necessary to revoke the Emergency Control Regulations implementing previous individual Commission Decisions.

5. Extent

5.1 This Instrument applies to England only. Corresponding Regulations will apply in 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, no statement is required.

7. Policy background

Policy

7.1 The Commission Decision is a consumer protection measure that consolidates, harmonises and extends the special conditions imposed on the import into the EU of certain foodstuffs imported from certain third countries due to contamination risks of these foodstuffs by aflatoxins.

7.2 Aflatoxins are toxins formed by the growth of certain moulds on food commodities grown in warm, humid conditions in the tropics and sub-tropics. They occur mainly in commodities imported from third countries, in particular peanuts, edible nuts and dried figs and products thereof. There are a number of different types of aflatoxin, with aflatoxin B_1 being the most toxic. It is a potent carcinogen in laboratory animals and there is evidence that it is a genotoxic human carcinogen i.e. it can cause cancer by reacting with genetic material. National and international expert bodies have recommended that aflatoxin concentrations in food should be reduced to the lowest levels technologically achievable.

Consultation

7.3 A shortened consultation of 6 weeks on the revocation of the Emergency Control Regulations was included in the consultation on the Contaminants in Food (England) Regulations 2006.

7.4 Consultation in England of over 700 interested parties for the 6 week period from 1 May 2006 did not produce any responses as far as the revocations were concerned. Unfortunately, the consolidated Commission Decision was not made in time to include the revocation of the Emergency Control Regulations in the Contaminants in Food (England) Regulations 2006.

7.5 Informal consultations on the potential impact of the Commission's Decision were carried out throughout the negotiations. On each occasion interested parties including consumer groups, industry and enforcement authorities were contacted via information letters both to provide an update on progress and to seek comments to help inform the UK's negotiating position. However, the only comments were an expression of satisfaction with the proposed measures.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared since the revocation of the Emergency Control Regulations has no impact on the private or public sector.

9. Contact

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