SCOTTISH STATUTORY INSTRUMENTS

2002 No. 179

FOOD

The Food (Jelly Confectionery) (Emergency Control) (Scotland) Regulations 2002

Made - - - -	*3rd April 2002*
Laid before the Scottish Parliament - - - -	*4th April 2002*
Coming into force - -	*4th April 2002*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Food (Jelly Confectionery) (Emergency Control) (Scotland) Regulations 2002 and shall come into force on 4th April 2002.

(2) These Regulations shall extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Food Safety Act 1990(**2**) and any expression used both in these Regulations and in the Act has the same meaning as in the Act;

"the Commission Decision" means Commission Decision 2002/247/EC suspending the placing on the market and import of jelly confectionery containing the food additive E 425 Konjac(**3**);

"jelly confectionery" includes jelly mini-cups.

(2) Any term used both in these Regulations and in the Commission Decision has the same meaning as in the Commission Decision.

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46) ("the 1998 Act"), Schedule 8, paragraph 15(3). The functions conferred on a Minister of the Crown under section 2(2) of the 1972 Act, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of the 1998 Act.

(**2**) 1990 c. 16.

(**3**) O.J. No. L 84, 28.03.02, p.69.

Prohibitions

3.—(1) No person shall carry out any commercial operation with respect to any jelly confectionery which contains E 425: Konjac (i) Konjac gum (ii) Konjac glucomannane.

(2) No person shall use E 425: Konjac (i) Konjac gum (ii) Konjac glucomannane in the manufacture of any jelly confectionery.

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

Enforcement

4.—(1) It shall be the duty of each food authority to execute and enforce these Regulations within its area.

(2) For the purposes of the exercise of the duty referred to in paragraph (1), an authorised officer of the food authority concerned shall–

(a) have the same powers as an authorised officer of an enforcement authority under section 32 of the Act for purposes connected with the Act or Regulations or Orders made under the Act; and

(b) be subject to the same obligations as regards the procurement of samples under section 29 of the Act as are imposed on an authorised officer of an enforcement authority by regulations 6 to 8 of the Food Safety (Sampling and Qualifications) Regulations 1990(**4**), with the modification that any reference in those Regulations to section 29 of the Act shall be deemed to be a reference to that section as applied by regulation 6(1)(c) of these Regulations.

(3) Each food 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.

Inspection and seizure of jelly confectionery

5.—(1) An authorised officer of a food authority may, for the purpose of enforcing these Regulations, at all reasonable times inspect any jelly confectionery which–

(a) has been sold or is offered or exposed for sale; or

(b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale.

(2) Paragraphs (3) to (8) shall apply where, whether or not on an inspection carried out under paragraph (1), it appears to an authorised officer that–

(a) any person has carried out commercial operations with respect to jelly confectionery which contains E 425: Konjac: (i) Konjac gum (ii) Konjac glucomannane in contravention of regulation 3(1) of these Regulations; or

(b) any person has used E 425: Konjac: (i) Konjac gum (ii) Konjac glucomannane in the manufacture of any jelly confectionery in contravention of regulation 3(2) of these Regulations.

(3) The authorised officer may either–

(a) give notice to the person in charge of such confectionery that, until the notice is withdrawn, the confectionery or any specified quantity of it–

(**4**) S.I.1990/2463, to which there are amendments not relevant to these Regulations.