SCOTTISH STATUTORY INSTRUMENTS

# 2002 No. 64

# FOOD

## The Food (Star Anise from Third Countries) (Emergency Control) (Scotland) Order 2002

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| *Made - - - -* | *15th February 2002* |
| *Laid before the Scottish Parliament - - - -* | *15th February2002* |
| *Coming into force - -* | *16th February 2002* |

Whereas it appears to the Scottish Ministers that the import of certain star anise originating in, or consigned from, third countries may, save as permitted by the following Order, involve imminent risk of injury to health, they, in exercise of the powers conferred by sections 6(4), 13(1) and 48(1) of the Food Safety Act 1990(**1**), and of all other powers enabling them in that behalf, having regard, in accordance with section 48(4A)(**2**) of that Act, to relevant advice given by the Food Standards Agency, hereby make the following Order:

### Citation, commencement and extent

**1.**—(1) This Order may be cited as the Food (Star Anise from Third Countries) (Emergency Control) (Scotland) Order 2002 and shall come into force on 16th February 2002.

(2) This Order extends to Scotland only.

### Interpretation

**2.** In this Order–

"the Act" means the Food Safety Act 1990;

"the Commission Decision" means Commission Decision 2002/75/EC(**3**) imposing special conditions on the import from third countries of star anise;

"free circulation" has the same meaning as in Article 23.2 of the Treaty establishing the European Community;

(**1**) 1990 c. 16; section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40); sections 13(1) and 48(1) were amended by the Food Standards Act 1999 (c. 28) ("the 1999 Act"), Schedule 5, paragraph 8. Amendments made by Schedule 5 to the 1999 Act which extend to Scotland shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c. 46) ("the 1998 Act") by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(**2**) Section 48 (4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.

(**3**) O.J. L 33, 2.2.02, p.31.

"Japanese star anise" means star anise (*Illicium anisatum*, also known as *Illicium religiosum*, *Illicium japonicum*, *shikimmi* and *skimmi*);

"star anise for human consumption" means star anise (*Illicium verum* also known as Chinese star anise or Chinese badian) falling within CN Code 0909 10 00 which is intended for human consumption or for use as an ingredient in foodstuffs;

and in the definition of "star anise for human consumption" terms used in this Order have the same meaning as in the Commission Decision.

**Prohibition of import**

**3.**—(1) No person shall import into Scotland any star anise for human consumption which has been consigned from a country which is not a member State of the European Community, except in accordance with the conditions specified in Article 1.1 and the second sentence of Article 1.2 of the Commission Decision.

(2) Paragraph (1) above shall not be taken to prohibit the bringing into Scotland–

(i) from another member State of the European Community of star anise for human consumption which is in free circulation in that member State;

(ii) from England, Wales or Northern Ireland of star anise for human consumption which has been imported into the United Kingdom in accordance with the conditions specified in Article 1.1 and the second sentence of Article 1.2 of the Commission Decision.

(3) No person shall import into Scotland any Japanese star anise which has been consigned from a country which is not a member State of the European Community, unless it–

(a) is intended for use other than for human consumption; and

(b) bears a label stating that it is not fit for human consumption.

**Enforcement**

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

(2) Each food authority shall give such assistance and information to the Scottish Ministers and the Food Standards Agency as they may reasonably request for the purpose of carrying out their duties under section 13 of the Act in connection with this Order.

**Application of various provisions of the Act**

**5.**—(1) The following provisions of the Act shall apply for the purposes of this Order and any reference in those provisions to the Act or part thereof shall be construed for the purposes of this Order as a reference to this Order:–

(a) section 3 (presumptions that food intended for human consumption);

(b) section 20 (offences due to fault of another person);

(c) section 33 (obstruction etc. of officers);

(d) section 35(1) (punishment of offences) in so far as it relates to offences under section 33 as applied by sub-paragraph (c) above; and

(e) section 44 (protection of officers acting in good faith).

(2) Subject to paragraph (3) below, section 9 of the Act (inspection and seizure of suspected food) shall apply for the purposes of this Order as if it read as follows:–

"**9.**—(1) An authorised officer of a food authority may at all reasonable times inspect any star anise for human consumption or Japanese star anise which–