Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) (Wales) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2005 No. 1540 (W.119)

FOOD, WALES

The Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) (Wales) Regulations 2005

Made - - - -	*9 June 2005*
Coming into force - -	*10 June 2005*

The National Assembly for Wales, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to food (including drink) including the primary production of food, in exercise of the powers conferred by that section, makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) (Wales) Regulations 2005 and they come into force on 10 June 2005.

(2) These Regulations apply in relation to Wales.

Commencement Information

I1 Reg. 1 in force at 10.6.2005, see **reg. 1(1)**

Interpretation

2.—(1) In these Regulations —

"the Act" means the Food Safety Act 1990(**3**) and, save where the context otherwise requires, any expression used both in these Regulations and in the Act has the meaning it bears in the Act;

"chilli" means fruits of the genus *Capsicum,* dried and crushed or ground within CN Code 09042090, in whatever form;

"chilli products" means curry powder within CN Code 091050, in whatever form;

(**1**) S.I. 2003/2901.
(**2**) 1972 c. 68.
(**3**) 1990 c. 16; section 1(1) and (2) (definition of "food) was substituted by S.I. 2004/2990; section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c. 40), Schedule 6 to the Food Standards Act 1999 (1999 c. 28) and S.I. 2004/2990.

"the Commission Decision" means the Commission Decision of 23rd May 2005 on emergency measures regarding chilli, chilli products, curcuma and palm oil;

"controlled products" means chilli, chilli products and curcuma intended for human consumption and palm oil intended for direct human consumption;

"curcuma" means curcuma, dried and crushed or ground within CN Code 091030, in whatever form;

"food authority" does not include any port health authority;

"free circulation" has the same meaning as in Article 23.2, as read with Article 24, of the Treaty establishing the European Community;

"intended for direct human consumption" has the same meaning as in the Commission Decision;

"palm oil" means palm oil within CN Code 15111090; and

"port health authority" means in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984, a port health authority for that district constituted by order under section 2(4) of that Act.

(2) Any term used in the definitions of "chilli", "chilli products", "curcuma" and "palm oil" in paragraph (1) has the same meaning as in the Commission Decision.

Commencement Information

I2 Reg. 2 in force at 10.6.2005, see **reg. 1(1)**

Prohibition on import

3.—(1) Subject to paragraph (2), no person may import into Wales any controlled products unless —

(a) the conditions specified in Articles 2.1, 2 and 4 and 4 of the Commission Decision are satisfied in relation to those products; and

(b) the costs resulting from their analysis, storage and destruction specified in Article 6 of the Commission Decision have been met.

(2) Nothing in paragraph (1) may be taken to prohibit the import into Wales from a member State of any controlled products which are in free circulation in that State.

(3) Any person who knowingly contravenes paragraph (1) will 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 or to both.

(4) For the purpose of determining whether or not any person is guilty of an offence consisting of a breach of paragraph (3), any chilli, chilli products, curcuma and palm oil must be presumed until the contrary is proved to be controlled products.

Commencement Information

I3 Reg. 3 in force at 10.6.2005, see **reg. 1(1)**

Enforcement

4.—(1) Subject to paragraph (2), it is the duty of each port health authority to execute and enforce these Regulations within its district.

(2) In relation to any place which is not situated in the district of a port health authority, these Regulations must be executed and enforced by the food authority for the area in which that place is situated.

(3) For the purposes of the exercise of the duty referred to in paragraph (1) or, as the case may be, (2), an authorised officer of the authority concerned—

(a) must ensure that the requirements referred to in paragraph (4) are met; and

(b) will have the same powers of entry as are bestowed on an authorised officer of an enforcement authority by section 32 of the Act for purposes connected with the Act or Regulations or Orders made under the Act.

(4) The requirements are those specified in —

(a) Article 2.1, 2 and 4 of the Commission Decision (which is concerned with documentary checks relating to consignments of controlled products);

(b) Article 3 of that Decision (which is concerned with the sampling and analysis of such consignments), other than the requirements to supply specified information and reports to the Commission; and

(c) Article 4 of that Decision (which is concerned with the case where consignments are split).

(5) Each port health authority and food authority must give such assistance and information to the National Assembly for Wales and the Food Standards Agency as they may reasonably request in connection with the execution and enforcement of these Regulations.

Commencement Information

I4 Reg. 4 in force at 10.6.2005, see **reg. 1(1)**

Application of various provisions of the Food Safety Act 1990 and sampling and analysis

5.—(1) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof is construed as a reference to these Regulations —

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

(b) section 33(1) (obstruction etc. of officers);

(c) section 33(2), with the modification that the reference to "any such requirement as is mentioned in subsection (1)(b) above" is deemed to be a reference to any such requirement as is mentioned in section 33(1)(b) as applied by sub-paragraph (b);

(d) section 35(1) (punishment of offences)(**4**), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (b);

(e) section 35(2) and (3)(**5**), in so far as it relates to offences under section 33(2) as applied by sub-pargraph (c);

(f) section 36 (offences by bodies corporate);

(g) section 36A (offences by Scottish partnerships)(**6**); and

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

(**4**) Section 35(1) is amended by the Criminal Justice Act 2003 (2003 c. 44), Schedule 26, paragraph 42, from a date to be appointed.
(**5**) Section 35(3) was amended by S.I. 2004/3279.
(**6**) Section 36A was inserted by the Food Standards Act 1999 (1999 c. 28), Schedule 5, paragraph 16.