STATUTORY RULES OF NORTHERN IRELAND

2005 No. 284

FOOD

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

Made - - - -	*1st June 2005*
Coming into operation	*2nd June 2005*

The Department of Health, Social Services and Public Safety(**1**), being a Department designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to measures relating to food (including drink) including the primary production of food, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) Regulations (Northern Ireland) 2005 and shall come into operation on 2nd June 2005.

Interpretation

2.—(1) In these Regulations –

"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;

"the Commission Decision" means the Commission Decision of 23rd May 2005 on emergency measures regarding chilli, chilli products, curcuma and palm oil(**4**);

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

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

(**1**) Formerly the Department of Health and Social Services; *see*S.I.1999/283 (N.I. 1), Article 3
(**2**) S.I. 2003/2901
(**3**) 1972 c. 68
(**4**) O.J. No. L135, 28.5.2004, p. 34

"the Department" means the Department of Health, Social Services and Public Safety;

"free circulation" has the same meaning as in Article 23.2, as read with Article 24, of the Treaty establishing the European Community(**5**);

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

"the Order" means the Food Safety (Northern Ireland) Order 1991(**6**) and subject to paragraph (2), any expression used both in these Regulations and in the Order has the meaning it bears in the Order; and

"palm oil" means palm oil within CN Code 15111090.

(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.

(3) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Prohibition on import

3.—(1) Subject to paragraph (2), no person shall import into Northern Ireland 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) shall be taken to prohibit the import into Northern Ireland from a member State of any controlled products which are in free circulation in that State.

(3) Any person who knowingly contravenes paragraph (1) 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 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 shall be presumed until the contrary is proved to be controlled products.

Enforcement

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

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

(a) ensure that the requirements referred to in paragraph (3) are adhered to; and

(b) have the same powers of entry as are bestowed on an authorised officer by Article 33 of the Order for purposes connected with the Order or Regulations or Orders made under the Order.

(3) The requirements are those specified in –

(**5**) O.J. C325/33 of 24th December 2002

(**6**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996 /1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28, paragraph 2 of Article 2 (regarding the definition of "food") was substitued by S.R. 2004 No. 482

(**7**) 1954 c. 33(N.I.)

(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 the Commission with specified information; and

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

(4) Each district council shall give such assistance and information to the Department and the Food Standards Agency as they may reasonably request in connection with the execution and enforcement of these Regulations.

Application of various provisions of the Food Safety (Northern Ireland) Order 1991 and sampling and analysis

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

(a) Article 19 (offences due to fault of another person);

(b) Article 34(1) (obstruction etc. of officers);

(c) Article 34(2), with the modification that the reference to "any such requirement as is mentioned in paragraph (1)(b)" shall be deemed to be a reference to any such requirement as is mentioned in Article 34(1)(b) as applied by sub-paragraph (b);

(d) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by sub-paragraph (b); and

(e) Article 36(2) and (3)(**8**), in so far as it relates to offences under Article 34(2) as applied by sub-paragraph (c).

(2) Article 29 of the Order (procurement of samples) shall apply for the purposes of these Regulations with the modifications that –

(a) for paragragh (b)(ii) there shall be substituted the following provision –

"(ii) is found by him at any premises which he is authorised to enter by virtue of regulation 4(2)(b) of the Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) Regulations (Northern Ireland) 2005;";

(b) paragraph (c) shall be omitted; and

(c) for "any of the provisions of this Order or of regulations or orders made under it" in paragraph (d) there shall be substituted "the Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) Regulations (Northern Ireland) 2005".

(3) Article 30 (analysis etc. of samples procured by authorised officer of a district council) shall apply for the purposes of these Regulations with the modification that in paragraph (1) for "An authorised officer of a district council who has procured a sample under Article 29 shall" there shall be substituted "An authorised officer of a district council who has procured a sample under Article 29 as applied for the purposes of the Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) Regulations (Northern Ireland) 2005 by regulation 5(2) thereof shall".

(4) Where a sample procured under Article 29 of the Order as applied for the purposes of these Regulations by paragraph (2) has been analysed in accordance with the provisions of Article 30 of the Order as so applied by paragraph (3), the owner shall be entitled on request to be supplied with a copy of the certificate of analysis by the district council.

(**8**) Article 36(3) was amended by S.R. 2004 No. 505