STATUTORY RULES OF NORTHERN IRELAND

2003 No. 362

FOOD

Food (Hot Chilli and Hot Chilli Products) (Emergency Control) Regulations (Northern Ireland) 2003

Made - - - -	*31st July 2003*
Coming into operation	*1st August 2003*

The Department of Health, Social Services and Public Safety, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) Regulations (Northern Ireland) 2003 and shall come into operation on 1st August 2003.

Interpretation

2.—(1) In these Regulations –

"the Commission Decision" means Commission Decision 2003/460/EC on emergency measures regarding hot chilli and hot chilli products(**3**) as corrected by a corrigendum published on 25th July 2003(**4**);

"controlled hot chilli and hot chilli products" means hot chilli and hot chilli products intended for human consumption;

"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;

"hot chilli and hot chilli products" means fruits of the genus Capsicum, dried and crushed or ground falling within CN code 0904 20 30 or 0904 20 90; and

(**1**) S.I.2000/2812
(**2**) 1972 c. 68
(**3**) O.J. No. L154, 21.6.2003, p. 114
(**4**) O.J. No. L186, 25.7.2003, p. 47

"the Order" means the Food Safety (Northern Ireland) Order 1991(**5**) and, subject to paragraph (2), any expression used both in these Regulations and in the Order has the meaning it bears in the Order.

(2) Any term used in the definition of "hot chilli and hot chilli products" in paragraph (1) has the same meaning as in the Commission Decision.

(3) The Interpretation Act (Northern Ireland) 1954(**6**) 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 any controlled hot chilli and hot chilli products unless –

(a) the conditions specified in Articles 2.1 and 3, 3.1 and 4 of the Commission Decision are satisfied in relation to those products; and

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

(2) Nothing in paragraph (1) shall be taken to prohibit the import from a member State of any controlled hot chilli and hot chilli 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.

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

Enforcement

4.—(1) These Regulations shall be enforced and executed by each district council 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 –

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

(b) Article 3 of that Decision (which is concerned with the sampling and analysis of such consignments), other than the requirement 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.

(**5**) 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

(**6**) 1954 c. 33 (N.I.)