STATUTORY RULES OF NORTHERN IRELAND

2002 No. 293

FOOD

Food (Peanuts from China) (Emergency Control) Regulations (Northern Ireland) 2002

Made - - - -	*19th September 2002*
Coming into operation	*23rd September 2002*

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 (Peanuts from China) (Emergency Control) Regulations (Northern Ireland) 2002 and shall come into operation on 23rd September 2002.

Interpretation

2. In these Regulations –

"Chinese peanuts" means –

(a) peanuts falling within CN code 1202 10 90 or within CN code 1202 20 00;

(b) roasted peanuts falling within CN code 2008 11 92 (in immediate packs of a net content exceeding 1 kg) or roasted peanuts falling within CN code 2008 11 96 (in immediate packs of a net content not exceeding 1 kg); and

(c) peanuts falling within CN code 2008 11 94 (in immediate packs of a net content exceeding 1 kg) or peanuts falling within CN code 2008 11 98 (in immediate packs of a net content not exceeding 1 kg),

originating in, or consigned from, China;

"the Commission Decision" means Commission Decision 2002/79/EC imposing special conditions on the import of peanuts and certain products derived from peanuts originating

(**1**) S.I.2000/2812
(**2**) 1972 c. 68

in or consigned from China(**3**) as amended by Commission Decision 2002/233/EC(**4**) and Commission Decision 2002/678/EC(**5**);

"controlled Chinese peanuts" means Chinese peanuts which are intended for human consumption or to be used as an ingredient in foodstuffs;

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

"Directive 98/53/EC" means Commission Directive 98/53/EC laying down the sampling methods and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs(**6**) as amended by Commission Decision 2002/27/EC(**7**);

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

"the Order" means the Food Safety (Northern Ireland) Order 1991(**8**), 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 "Chinese peanuts" or "controlled Chinese peanuts" in paragraph (1) has the same meaning as in the Commission Decision.

Prohibition on import

3.—(1) Subject to paragraph (3), no person shall import any controlled Chinese peanuts unless –

(a) the conditions specified in Article 1.1 and 1.3 of the Commission Decision are satisfied in relation to those peanuts; or

(b) the derogation contained in Article 1a of the Commission Decision (which is concerned with consignments which left China prior to 11th March 2002) is satisfied in relation to them.

(2) Subject to paragraph (3), no person shall import any controlled Chinese peanuts, except through a point of entry listed in Annex II to the Commission Decision.

(3) Neither paragraph (1) nor paragraph (2) shall be taken to prohibit the import from a member State of any controlled Chinese peanuts which are in free circulation in that State.

(4) 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.

(5) For the purpose of determining whether or not any person is guilty of an offence consisting of a breach of paragraph (4), any Chinese peanuts shall be presumed until the contrary is proved to be controlled Chinese peanuts.

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

(**3**) O.J. No. L34, 5.2.2002, p. 21
(**4**) O.J. No. L78, 21.3.2002, p. 14
(**5**) O.J. No. L229, 27.8.2002, p. 33
(**6**) O.J. No. L201, 17.7.1998, p. 93
(**7**) O.J. No. L75, 16.3.2002, p. 44
(**8**) 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

(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 1.4 of the Commission Decision (which is concerned with documentary checks relating to consignments of controlled Chinese peanuts); and

(b) Article 1.5 and 1.6 of that Decision (which provisions are concerned with the sampling and analysis of such consignments) other than the requirement under Article 1.5 to supply the Commission with specified information.

(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 Order

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

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

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

(c) Article 36(1) (punishment of offences) in so far as it relates to offences under Article 34 as applied by sub-paragraph (b).

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

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

"(ii) is found by him on or in any premises which he is authorised to enter in pursuance of regulation 4(2)(b) of the Food (Peanuts from China) (Emergency Control) Regulations (Northern Ireland) 2002;";

(b) the power to take samples under paragraphs (b) and (d) shall be limited to the taking of samples in accordance with the methods of taking samples described or referred to in Annex I to Directive 98/53/EC;

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

(d) 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 (Peanuts from China) (Emergency Control) Regulations (Northern Ireland) 2002".

(3) Where, pursuant to Article 29(b) of the Order as applied for the purposes of these Regulations by paragraph (2), an authorised officer has taken a sample of any controlled Chinese peanuts, he shall ensure that –

(a) the sample is prepared in accordance with –

(i) paragraphs 1.1, 2 and 3 of Annex II to Directive 98/53/EC, and

(ii) in the case of whole nuts, paragraph 1.2 of that Annex;

(b) an analysis of the sample is carried out at a laboratory which complies with Council Directive 93/99/EEC on the subject of additional measures concerning the official control of foodstuffs(**9**);

(**9**) O.J. No. L290, 24.11.93, p. 14