STATUTORY RULES OF NORTHERN IRELAND

2002 No. 226

FOOD

Food and Animal Feedingstuffs (Products of Animal Origin from China) (Emergency Control) Regulations (Northern Ireland) 2002

Made - - - -	*25th June 2002*
Coming into operation	*28th June 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 and Animal Feedingstuffs (Products of Animal Origin from China) (Emergency Control) Regulations (Northern Ireland) 2002 and shall come into operation on 28th June 2002.

Interpretation

2.—(1) In these Regulations –

"the Commission Decision" means Commission Decision 2002/69/EC concerning certain protective measures with regard to the products of animal origin imported from China(**3**), as amended by Commission Decision 2002/441/EC(**4**);

"the Department" means the Department of Agriculture and Rural Development;

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

(**1**) S.I.2000/2812
(**2**) 1972 c. 68
(**3**) O.J. No. L30, 31.1.2002, p. 50
(**4**) O.J. No. L151, 11.6.2002, p. 16

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

"relevant product of animal origin" means a product of animal origin falling within either of the following descriptions –

(a) products of animal origin originating in, or consigned from, China, and intended for human consumption, or animal feed use, except for any such product which is of a kind to which the derogation contained in Article 2.2 of the Commission Decision (which is concerned with casings, certain fishery products and gelatine) applies; and

(b) products which contain any product falling within the description given in paragraph (a).

(2) Any expression used both in these Regulations and in the Commission Decision has the same meaning in these Regulations as it bears in that Decision.

(3) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Prohibition of importation and offence

3.—(1) Subject to paragraph (2), no person shall import any relevant product of animal origin.

(2) Paragraph (1) shall not be taken to prohibit the bringing into Northern Ireland from another member State of any relevant product of animal origin which is in free circulation in that member 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 imprisonment for a term not exceeding three months.

Enforcement

4.—(1) These Regulations shall be enforced and executed by the Department or any district council, or by the Department and any district council acting jointly.

(2) For the purposes of the exercise of the duty referred to in paragraph (1) –

(a) the Department or a district council shall exercise that duty in accordance with Article 4 of the Commission Decision (which is concerned with the levying of charges in respect of expenditure incurred in connection with the application of the Commission Decision);

(b) an authorised officer of the Department or of a district council shall –

(i) comply with Article 3.1 of the Commission Decision (which is concerned with the sampling and analysis of consignments of certain fishery products and of casings), and

(ii) 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 under the Order, and shall also have, in relation to any business producing material for animal feed use, the same power as an authorised officer has under that Article in relation to a food business.

(3) A person on whom a charge is levied under paragraph (2)(a) shall pay it to the Department or the district council on demand.

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

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 as a reference to these Regulations –

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

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

(c) Article 36 (punishment of offences) in so far as it relates to offences under Article 34(1) and (2) as applied by sub-paragraph (b).

(2) Subject to paragraph (3), Article 8 of the Order (inspection and seizure of suspected food) shall apply for the purposes of these Regulations as if it read as follows –

"**8.**—(1) An authorised officer of the Department or of a district council may at all reasonable times inspect any relevant product of animal origin which –

(a) has been sold or is offered or exposed for sale; or

(b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale.

(2) Paragraphs (3) to (8) shall apply where, whether or not on an inspection carried out under paragraph (1), it appears to an authorised officer of the Department or of a district council that any relevant product of animal origin has been imported in contravention of regulation 3(1) of the Food and Animal Feedingstuffs (Products of Animal Origin from China) (Emergency Control) Regulations (Northern Ireland) 2002.

(3) The authorised officer may either –

(a) give notice to the person in charge of the product that, until the notice is withdrawn, the product or any specified portion of it –

(i) is not to be used for human consumption or, as the case may be, put to animal food use, and

(ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the product and remove it in order to have it dealt with by a justice of the peace;

and any person who knowingly contravenes the requirements of a notice under sub-paragraph (a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Where the authorised officer exercises the powers conferred by paragraph (3)(a), he shall, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he is satisfied that the product has not been imported in contravention of regulation 3(1) of the aforesaid Regulations and –

(a) if he is so satisfied, shall forthwith withdraw the notice;

(b) if he is not so satisfied, shall seize the product and remove it in order to have it dealt with by a justice of the peace.

(5) Where an authorised officer exercises the powers conferred by paragraph (3)(b) or (4)(b), he shall inform the person in charge of the product of his intention to have it dealt with by a justice of the peace and –

(a) any person who under regulation 3(3) of the aforesaid Regulations might be liable to a prosecution in respect of the product shall, if he attends before the justice of