STATUTORY RULES OF NORTHERN IRELAND

2002 No. 140

FOOD

Food (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) Regulations (Northern Ireland) 2002

Made - - - -	*9th April 2002*
Coming into operation	*11th April 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 (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) Regulations (Northern Ireland) 2002 and shall come into operation on 11th April 2002.

Interpretation

2.—(1) In these Regulations—

"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;

"the Commission Decision" means Commission Decision 2002/80/EC(**3**) imposing special conditions on the import of figs, hazelnuts and pistachios and certain products derived thereof originating in or consigned from Turkey as amended by Commission Decision 2002/233/EC(**4**);

"controlled Turkish products" means Turkish products 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;

(**1**) S.I.2000/2812
(**2**) 1972 c. 68
(**3**) O.J. No. L34, 5.2.2002, p. 26
(**4**) O.J. No. L78, 21.3.2002, p.14

"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(**5**);

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

"Turkish products" means products of the categories to which Article 1.1 of the Commission Decision applies and which originate in or are consigned from Turkey.

(2) Any term used in the definition of "controlled Turkish products" or "Turkish products" in paragraph (1) has the same meaning as in the Commission Decision.

Prohibition of import

3.—(1) Subject to paragraph (3), no person shall import any controlled Turkish products unless—

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

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

(2) Subject to paragraph (3), no person shall import any controlled Turkish products, 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 Turkish products which are in free circulation in that State.

(4) For the purposes of this regulation, any Turkish products shall be presumed until the contrary is proved to be controlled Turkish products.

(5) 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.

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 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.

(3) 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);

(**5**) O.J. No. L201, 17.7.1998, p. 93

(c) Article 36(1) (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 may at all reasonable times inspect any controlled Turkish products which—

(a) have been sold or are offered or exposed for sale; or

(b) are in the possession of, or have 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 that any controlled Turkish products have been imported in contravention of Article 3(1) or (2) of the Food (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) Regulations (Northern Ireland) 2002.

(3) The authorised officer may either—

(a) give notice to the person in charge of the products that, until the notice is withdrawn, the products or any specified quantity of them—

(i) are not to be used for human consumption, and

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

(b) seize the products and remove them in order to have them 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 products have not been imported in contravention of Article 3(1) or (2) 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 products and remove them in order to have them 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 products of his intention to have them dealt with by a justice of the peace and—

(a) any person who under regulation 3(5) of the aforesaid Regulations might be liable to a prosecution in respect of the products shall, if he attends before the justice of the peace by whom the products fall to be dealt with, be entitled to be heard and to call witnesses; and

(b) that justice of the peace may, but need not, be a member of the court before which any person is proceeded against for an offence consisting of a contravention of regulation 3(1) or (2) of the aforesaid Regulations in relation to those products.

(6) If it appears to a justice of the peace, on the basis of such evidence as he considers appropriate in the circumstances, that any products falling to be dealt with by him under this Article have been imported in contravention of regulation 3(1) or (2) of the aforesaid Regulations, he shall condemn the products and order—