

## Statutory Rule 2002 No. 82

### **Food (Star Anise from Third Countries) (Emergency Control) Order (Northern Ireland) 2002**

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#### STATUTORY RULES OF NORTHERN IRELAND

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### **2002 No. 82**

### **FOOD**

### **Food (Star Anise from Third Countries) (Emergency Control) Order (Northern Ireland) 2002**

*Made*

*6th March 2002*

*Coming into operation*

*7th March 2002*

Whereas it appears to the Department of Health, Social Services and Public Safety<sup>[1]</sup> that the import of certain Star Anise consigned from countries which are not Member States of the European Community may, save as permitted by the following Order, involve imminent risk of injury to health;

Now therefore that Department, in exercise of the powers conferred on it by Articles 12(1), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991<sup>[2]</sup>, and of all other powers enabling it in that behalf and having regard, in accordance with Article 47(3A) of the said Order, to relevant advice given by the Food Standards Agency, hereby makes the following Order:

#### **Citation and commencement**

1. This Order may be cited as the Food (Star Anise from Third Countries) (Emergency Control) Order (Northern Ireland) 2002 and shall come into operation on 7th March 2002.

### **Interpretation**

2. In this Order -

"the 1991 Order" means the Food Safety (Northern Ireland) Order 1991;

"the Commission Decision" means Commission Decision 2002/75/EC laying down special conditions on the import from third countries of Star Anise<sup>[3]</sup>;

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

"Japanese Star Anise" means Star Anise (*Illicium anisatum*, also known as *Illicium religiosum*, *Illicium japonicum*, *shikimmi* and *skimmi*);

"member State" means a member State of the European Community;

"Star Anise for human consumption" means Star Anise (*Illicium verum*, also known as Chinese Star Anise or Chinese Badian) falling within CN code 0909 10 00 which is intended for human consumption or for use as an ingredient in foodstuffs;

and any term used in the definition of "Star Anise for human consumption" has the same meaning as in the Commission Decision.

### **Prohibitions of import**

3. - (1) No person shall import any Star Anise for human consumption which has been consigned from a country which is not a member State, except in accordance with the conditions in Article 1.1 and the second sentence of Article 1.2 of the Commission Decision.

(2) Paragraph (1) shall not be taken to prohibit the bringing into Northern Ireland from another member State of Star Anise for human consumption which is in free circulation in that member State.

(3) No person shall import any Japanese Star Anise which has been consigned from a country which is not a member State if it -

(a) is intended for use for human consumption; or

(b) does not bear a label stating that it is not fit for human consumption.

### **Enforcement**

4. - (1) This Order shall be enforced and executed by each district council within its district.

(2) Each district council shall give such assistance and information to the Department and the Food Standards Agency as they may reasonably request for the purpose of carrying out their duties under Article 12 of the 1991 Order in connection with this Order.

### **Application of various provisions of the 1991 Order**

5. - (1) The following provisions of the 1991 Order shall apply for the purposes of this Order and any reference in those provisions to the 1991 Order or part thereof shall be construed for the purposes of this Order as a reference to this Order -

- (a) Article 4 (presumptions that food intended for human consumption);
- (b) Article 19 (offences due to fault of another person);
- (c) Article 34(1) (obstruction etc. of officers);
- (d) Article 36(1) (punishment of offences) in so far as it relates to offences under Article 34(1) as applied by sub-paragraph (c); and
- (e) Article 43 (protection of public analyst acting in good faith).

(2) Subject to paragraph (3), Article 8 of the 1991 Order (inspection and seizure of suspected food) shall apply for the purposes of this Order as if it read as follows -

" 8. - (1) An authorised officer may at all reasonable times inspect any Star Anise for human consumption or Japanese Star Anise 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 that any Star Anise for human consumption or Japanese Star Anise has been imported in contravention of Article 3(1) or, as the case may be, 3(3), of the Food (Star Anise from Third Countries) (Emergency Control) Order (Northern Ireland) 2002.

(3) The authorised officer may either -

(a) give notice to the person in charge of the Star Anise concerned that, until the notice is withdrawn, the Star Anise or any specified quantity of it -

- (i) is not to be used for human consumption, 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 Star Anise 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 Star Anise has not been imported in contravention of Article 3(1) or, as the case may be, 3(3) of the aforesaid Order and -

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

(b) if he is not so satisfied, shall seize the Star Anise 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 Star Anise of his intention to have it dealt with by a justice of the peace and -

(a) any person who under Article 36(2) of the 1991 Order might be liable to a prosecution in respect of the Star Anise shall, if he attends before the justice of the peace by whom the Star Anise falls 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 Article 3(1) or, as the case may be, 3(3) of the aforesaid Order in relation to that Star Anise.

(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 Star Anise falling to be dealt with by him under this Article has been imported in contravention of Article 3(1) or, as the case may be, 3(3) of the aforesaid Order, he shall condemn the Star Anise and order -

(a) the Star Anise to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and

(b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the Star Anise.

(7) If a notice under paragraph (3)(a) is withdrawn, or the justice of the peace by whom any Star Anise falls to be dealt with under this Article refuses to condemn it, the district council shall compensate the owner of the Star Anise for any depreciation in its value resulting from the action taken by the authorised officer.

(8) Any disputed question as to the right to or the amount of any compensation payable under paragraph (7) shall be determined by a single arbitrator appointed, failing agreement between the parties, by the Department; and the provisions of the Arbitration Act 1996<sup>[4]</sup> shall apply accordingly."

(3) The expressions "Star Anise for human consumption" and "Japanese Star Anise", which are used in Article 8 of the 1991 Order so far as it applies for the purposes of this Order by virtue of paragraph (2) shall, for those purposes, bear the meanings that those expressions respectively bear in this Order.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety  
on

6th March 2002.

***L.S.***

*Denis McMahon*

A Senior Officer of the Department of Health, Social Services and Public Safety

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**EXPLANATORY NOTE**

*(This note is not part of the Order.)*

This Order is made under Article 12 of the Food Safety (Northern Ireland) Order 1991 in consequence of it appearing to the Department of Health, Social Services and Public Safety that the importation of certain Star Anise consigned from countries which are not member States of the European Community may involve imminent risk of injury to health.

The Order also implements Commission Decision 2002/75/EC laying down special conditions on the import from third countries of Star Anise (O.J. No. L33, 2.2.2002, p. 31).

The Order -

- (a) prohibits the importation of "Star Anise for human consumption" consigned from countries which are not member States of the European Community except where it is accompanied by health certificates completed by the competent authority of the exporting third country and a report on the results of official sampling and analysis undertaken in that country, the importation takes place only through specified points of entry and the consignment is identified with a code corresponding with that specified on the health certificate and in the sampling and analysis results (Articles 2 and 3(1));
- (b) prohibits the importation of "Japanese Star Anise" intended for human consumption or which is not labelled to the effect that it is unfit for such use (Articles 2 and 3(2));
- (c) specifies the enforcement authority (Article 4); and
- (d) applies, with modifications, provisions of the 1991 Order (Article 5).

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*Notes:*

[1] Formerly the Department of Health and Social Services: see S.I. 1999/283 (N.I. 1) Article 3(6)[back](#)

[2] S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and paragraph 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28[back](#)

[3] O.J. No. L33, 2.2.2002, p. 31[back](#)

[4] 1996 c. 23[back](#)

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