CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2003 Rhif 2288 (Cy.227)

BWYD, CYMRU

Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) 2003

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn, sy'n gymwys mewn perthynas â Chymru yn unig, yn dirymu ac yn ailddeddfu gyda newidiadau Orchymyn Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) 1997 (O.S. 1997/2238 (Gorchymyn 1997), fel y'i diwygiwyd gan O.S. 1997/3046), sy'n gymwys i Brydain Fawr i gyd a Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) 2003 (O.S. 2003/1119) (Cy.150)) (Gorchymyn 2003) sy'n gymwys i Gymru'n unig. Rheoliad 7 sy'n rhoi effaith i'r dirymu.

Rhoddodd Gorchymyn 1997 ar waith Benderfyniad y Comisiwn 97/613/EC sy'n ymdrin ag atal dros dro fewnforio cnau pistasio a chynhyrchion penodol sy'n deillio o gnau pistasio ac sy'n tarddu neu a draddodwyd o Iran (OJ Rhif L248, 11.9.97, t.33), a chafodd ei ddiddymu wedyn a rhoddwyd yn ei le Benderfyniad y Comisiwn 1997/830/EC (OJ Rhif L343, 13.12.97, t. 30).

Dirymodd ac ailddeddfodd gyda newidiadau Gorchymyn 2003 Orchymyn 1997, fel y'i diwygiwyd. Rhoddodd Gorchymyn 2003 ar waith Benderfyniad y Comisiwn 1997/830/EC sy'n diddymu Penderfyniad y Comisiwn 97/613/EC ac yn gosod amodau arbennig ar fewnforio cnau pistasio a chynhyrchion penodol sy'n deillio o gnau pistasio sy'n tarddu o Iran, neu'n cael eu traddodi oddi yno (OJ Rhif L343, 13.12.97, t.30), fel y'i diwygiwyd gan Benderfyniad y Comisiwn 1998/400/EC (OJ Rhif L176, 20.6.98, t.37), Penderfyniad y Comisiwn 2000/238/EC (OJ Rhif L75, 24.3.2000, t.59) a Phenderfynaid y Comisiwn 2002/1041/EC. Pennir y categorïau o gynhyrchion

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2003 No. 2288 (W.227)

FOOD, WALES

The Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to Wales only, revoke and re-enact with changes the Food (Pistachios from Iran) (Emergency Control) Order 1997 (S.I. 1997/2238 (the 1997 Order), as amended by S.I.1997/3046), which applies to the whole of Great Britain and the Food (Pistachios from Iran) (Emergency Control) Regulations 2003 (S.I. 2003/1119 (W.150)) (the 2003 Order) which applies to Wales only. The revocation is effected by regulation 7.

The 1997 Order implemented Commission Decision 97/613/EC on the temporary suspension of imports of pistachios and certain products derived from pistachios originating in or consigned from Iran (OJ No. L248, 11.9.97, p.33), subsequently repealed and replaced with Commission Decision 1997/830/EC (OJ No. L343, 13.12.97, p. 30).

The 2003 Order revoked and re-enacted with changes the 1997 Order, as amended. The 2003 Order implemented Commission Decision 1997/830/EC repealing Commission Decision 97/613/EC and imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran (OJ No. L343, 13.12.97, p.30), as amended by Commission Decision 1998/400/EC (OJ No. L176, 20.6.98, p.37), Commission Decision 2000/238/EC (OJ No. L75, 24.3.2000, p.59) and Commission Decision 2002/1041/EC. The categories of products which are subject to those conditions are specified in Article 2 of Commission Decision 1997/830/EC as so amended.

sy'n ddarostyngedig i'r amodau hynny yn Erthygl 2 o Benderfyniad y Comisiwn 1997/830/EC fel y'i diwygiwyd felly. Caiff Gorchymyn 2003 ei ddirymu a'i ailddeddfu gyda newidiadau gan iddo gael ei wneud drwy gamgymeriad cyn i Benderfyniad y Comisiwn 2002/1041/EC gael ei fabwysiadu.

Mae'r Rheoliadau hyn yn rhoi ar waith Benderfyniad y Comisiwn 1997/830/EC sy'n diddymu Penderfyniad y Comisiwn 97/613/EC ac yn gosod amodau arbennig ar fewnforio cnau pistasio a chynhyrchion penodol sy'n deillio o gnau pistasio sy'n tarddu, neu a draddodwyd, o Iran (OJ Rhif L343, 13.12.1997, t.30) fel y'i diwygiwyd gan Benderfyniad y Comisiwn 1998/400/EC (OJ Rhif L176, 20.6.98, t.37), 2000/238/EC (OJ Rhif L75, 24.3.2000, t.59) a 2003/551/EC (OJ Rhif L187, 26.7.2003, t.43).
Pennir y categorïau o gynhyrchion sy'n ddarostyngedig i'r amodau hynny yn Erthygl 2(1) o Benderfyniad y Comisiwn 1997/830/EC fel y'i diwygiwyd.

Mae'r Rheoliadau hyn -

(a) yn gwahardd mewnforio "cnau pistasio Iranaidd" (fel y'u diffinnir yn rheoliad 2(1)), oni bai -

  (i) bod ganddynt dystysgrif iechyd Llywodraeth Iran, a chanlyniadau'r samplo a'r dadansoddi swyddogol, mai drwy bwynt mynediad penodedig yn unig mae'r mewnforio yn digwydd a bod pob llwyth wedi cael ei nodi â chod sy'n cyfateb i'r cod a nodwyd ar y dystysgrif iechyd a'r adroddiad sy'n dod gyda hwy sy'n cynnwys canlyniadau'r samplo a'r dadansoddi,

  (ii) bod dogfennau perthnasol penodedig wedi cael eu gwirio, a

  (iii) bod pob llwyth yn cael ei ddadansoddi am lefelau afflatocsin B1 a lefelau afflatocsin cyfan cyn ei ryddhau ar y farchnad (*rheoliad 3*);

(b) yn darparu ar gyfer eu gorfodi (*rheoliad 4*);

(c) yn cymhwyso gydag addasiadau ddarpariaethau penodol o Ddeddf Diogelwch Bwyd 1990 at ddibenion y Rheoliadau ac yn darparu ar gyfer samplo a dadansoddi (*rheoliad 5*); ac

(ch) yn darparu ar gyfer ail-anfon neu ddistrywio mewnforion anghyfreithlon o gnau pistasio Iranaidd (*rheoliad 6*).

Dyma'r prif newidiadau sy'n cael eu hachosi gan y Rheoliadau hyn -

(a) addaswyd y gofyniad blaenorol bod bob llwyth o gnau pistasio Iranaidd yn cael ei samplo a'i ddadansoddi er mwyn sicrhau cydymffurfio â Phenderfyniad y Comisiwn 1997/830/EC drwy ddarparu -

The 2003 Order is being revoked and re-enacted with changes as it was made in error before Commission Decision 2002/1041/EC was adopted.

These Regulations implement Commission Decision 1997/830/EC repealing Commission Decision 97/613/EC and imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran (OJ No. L343, 13.12.1997, p.30) as amended by Commission Decision 1998/400/EC (OJ No. L176, 20.6.98, p.37), 2000/238/EC (OJ No. L75, 24.3.2000, p.59) and 2003/551/EC (OJ No. L187, 26.7.2003, p.43). The categories of products which are subject to those conditions are specified in Article 2(1) of Commission Decision 1997/830/EC as so amended.

These Regulations -

(a) prohibit the importation of "Iranian pistachios" (defined in regulation 2(1)), except where -

  (i) they are accompanied by an Iranian Government health certificate and the results of official sampling and analysis, the importation takes place only through a specified point of entry and each consignment is identified with a code corresponding with that specified on the health certificate and the accompanying report containing the sampling and analysis results,

  (ii) they are subject to specified documentary checks, and

  (iii) each consignment is subjected to analysis of aflatoxin B1 and total aflatoxin levels before release onto the market (*regulation 3*);

(b) provide for their enforcement (*regulation 4*);

(c) apply with modifications certain provisions of the Food Safety Act 1990 for the purposes of the Regulations and provide for sampling and analysis (*regulation 5*); and

(d) provide for the re-dispatch or destruction of illegal imports of Iranian pistachios (*regulation 6*).

The principal changes effected by these Regulations are that -

(a) the previous requirement that each consignment of Iranian pistachios be subjected to systematic sampling and analysis in order to ensure compliance with Commission Decision 1997/830/EC is modified by providing that -

(i) bod rhaid dadansoddi sampl o bob llwyth am afflatocsin ac afflatocsin cyfan cyn ei ryddhau ar y farchnad o'r pwynt mynediad i'r Gymuned,

(ii) na ddylai'r cyfnod cadw fod yn fwy na 15 diwrnod gwaith, a

(iii) bod rhaid i swyddog awdurdodedig yr awdurdod gorfodi perthnasol gyhoeddi hysbysiad ysgrifenedig sy'n datgan bod samplo wedi digwydd a chyhoeddi canlyniadau dadansoddi'r sampl; a

(b) rhoddir pŵer i un o swyddogion awdurdodedig yr awdurdod gorfodi perthnasol (yn ddarostyngedig i hawl apêl i lys ynadon) gyhoeddi hysbysiad yn gorchymyn ail-anfon mewnforion anghyfreithlon o gnau pistasio Iranaidd.

Rhifau cod y gyfundrefn enwi gyfun a sefydlwyd gan Reoliad y Cyngor 2658/87 ar y tariff a'r gyfundrefn enwi ystadegol ac ar dariff y Tollau (OJ Rhif L256, 7.9.87, t.1) yw'r codau CN y cyfeirir atynt yn y diffiniad o "cnau pistasio o Iran".

Ni pharatowyd arfarniad rheoliadol mewn perthynas â'r Rheoliadau hyn.

(i) a sample of each consignment must be analysed for aflatoxin and total aflatoxin before release onto the market from the point of entry into the Community,

(ii) the period of detention should not exceed 15 working days, and

(iii) an authorised officer of the relevant enforcement authority must issue a notice in writing stating that sampling has taken place and the results of the analysis of the sample; and

(b) an authorised officer of the relevant enforcement authority is empowered (subject to a right of appeal to a magistrates' court) to issue a notice ordering the re-dispatch of illegal imports of Iranian pistachios.

The CN codes referred to in the definition of "Iranian pistachios" are the code numbers of the combined nomenclature established by Council Regulation 2658/87 on the tariff and statistical nomenclature and on the Customs tariff (OJ No. L256, 7.9.87, p.1).

No regulatory appraisal has been prepared in relation to these Regulations.

OFFERYNNAU STATUDOL

2003 Rhif 2288 (Cy.227)

BWYD, CYMRU

Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) 2003

Wedi'u gwneud	*5 Medi 2003*
Yn dod i rym	*6 Medi 2003*

Mae Cynulliad Cenedlaethol Cymru, gan ei fod wedi'i ddynodi(**a**) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(**b**) mewn perthynas â pholisi amaethyddol cyffredin y Gymuned Ewropeaidd, drwy arfer y pwerau a roddwyd iddo gan yr adran honno, yn gwneud y Rheoliadau canlynol:

Teitl, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) 2003 a deuant i rym ar 6 Medi 2003.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

Dehongli

2.-(1) Yn y Rheoliadau hyn -

mae i "awdurdod bwyd" yr un ystyr â "*food authority*" yn adran 5(1A) a (3)(a) a (b) o Ddeddf Diogelwch Bwyd 1990(**c**);

ystyr "awdurdod iechyd porthladd" ("*port health authority*") mewn perthynas ag unrhyw ardal iechyd porthladd a sefydlwyd drwy orchymyn o dan adran 2(3) o Ddeddf Iechyd y Cyhoedd (Rheoli Clefydau) 1984(**ch**), yw awdurdod iechyd porthladd i'r ardal honno a sefydlwyd gan orchymyn o dan adran 2(4) o'r Ddeddf honno;

ystyr "cnau pistasio Iranaidd" ("*Iranian*

(a) O.S. 1999/2788.

(b) 1972 p. 68.

(c) 1990 p.16.

(ch) 1984 p.22..

STATUTORY INSTRUMENTS

2003 No. 2288 (W.227)

FOOD, WALES

The Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003

Made	*5th September 2003*
Coming into force	*6th September 2003*

The National Assembly for Wales, being designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by that section, makes the following Regulations:

Title, commencement and application

1.-(1) These Regulations may be cited as the Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003 and shall come into force on 6th September 2003.

(2) These Regulations apply to Wales only.

Interpretation

2.-(1) In these Regulations -

"the Act" ("*y Ddeddf*") means the Food Safety Act 1990(**c**);

"CN code number" ("*rhif y cod CN*") means a code number of the combined nomenclature established by Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs tariff(**d**);

"the Commission Decision" ("*penderfyniad y Comisiwn*") means Commission Decision 97/830/EC repealing Commission Decision 97/613/EC and imposing special conditions on

(a) S.I. 1999/2788.

(b) 1972 c. 68.

(c) 1990 c. 16.

(d) OJ No. L256, 7.9.87, p.1.

pistachios") yw -

(a) cnau pistasio sy'n dod o fewn cod CN 0802 50 00; a

(b) cnau pistasio wedi eu rhostio sy'n dod o fewn cod CN 2008 19 13 neu god 2008 19 93,

ac unrhyw gynhyrchion sy'n deillio o gnau pistasio neu gnau pistasio wedi eu rhostio sy'n tarddu, neu a draddodwyd, o Iran;

ystyr "Cyfarwyddeb 98/53/EC" ("*Directive 98/53/EC*") yw Cyfarwyddeb y Comisiwn 98/53/EC sy'n pennu'r dulliau samplo a dadansoddi ar gyfer rheolaeth swyddogol ar lefelau halogion penodol mewn bwydydd(**a**) ac fel y'i diwygiwyd gan Benderfyniad y Comisiwn 2002/27/EC(**b**);

mae i "cylchrediad rhydd" yr un ystyr â "*free circulation*" yn Erthygl 23.2, fel y'i darllenir ynghyd ag Erthygl 24, o'r Cytuniad a sefydlodd y Gymuned Ewropeaidd;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Diogelwch Bwyd 1990;

ystyr "Penderfyniad y Comisiwn" ("*the Commission Decision*") yw Penderfyniad y Comisiwn 97/830/EC sy'n diddymu Penderfyniad y Comisiwn 97/613/EC ac yn gosod amodau arbennig ar fewnforio cnau pistasio a chynhyrchion penodol sy'n deillio o gnau pistasio ac sy'n tarddu neu wedi cael eu traddodi o Iran(**c**) fel y'i diwygiwyd gan Benderfyniad y Comisiwn 1998/400/EC(**ch**), Penderfyniad y Comisiwn 2000/238/EC(**d**) a Phenderfyniad y Comisiwn 2003/551/EC(**dd**); ac

ystyr "rhif cod CN" ("*CN code number*") yw rhif cod y gyfundrefn enwi a sefydlwyd gan Reoliad y Cyngor (EEC) Rhif 2658/87 ar y tariff a'r gyfundrefn enwi ystadegol ac ar dariff Cyffredin y Tollau(**e**).

(2) Mae i unrhyw ymadrodd a ddefnyddir yn y diffiniad o "cnau pistasio Iranaidd" ym mharagraff (1) yr un ystyr â'r ymadroddion cyfatebol ym Mhenderfyniad y Comisiwn.

Gwaharddiad ar fewnforio

3.-(1) Yn ddarostyngedig i baragraff (3), ni chaiff neb fewnforio i Gymru unrhyw gnau pistasio Iranaidd oni bai bod yr amodau a bennir yn Erthygl 2.4, 2.5 a 2.7 o Benderfyniad y Comisiwn wedi eu bodloni mewn

(a) OJ Rhif L201, 17.7.1998, t.93.

(b) OJ Rhif L75, 16.3.2002, t.44.

(c) OJ Rhif L343, 13.12.1997, t.30.

(ch) OJ Rhif L176, 20.6.98, t.37.

(d) OJ Rhif L75, 24.3.2000, t.59.

(dd) OJ Rhif L187, 26.7.2003

(e) OJ Rhif L256, 7.9.87, t.1.

the import of pistachios and certain products derived from pistachios originating in or consigned from Iran(**a**) as amended by Commission Decision 1998/400/EC(**b**), Commission Decision 2000/238/EC(**c**) and Commission Decision 2003/551/EC(**d**);

"Iranian pistachios" ("*cnau pistasio Iranaidd*") means -

(a) pistachios falling within CN code 0802 50 00; and

(b) roasted pistachios falling within CN code 2008 19 13 or code 2008 19 93,

and any products derived from such pistachios or roasted pistachios originating in, or consigned from, Iran;

"Directive 98/53/EC" ("*Cyfarwyddeb 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(**e**) as amended by Commission Decision 2002/27/EC(**f**);

"food authority" ("*awdurdod bwyd*") has the same meaning as in section 5(1A) and (3)(a) and (b) of the Food Safety Act 1990;

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

"port health authority" ("*awdurdod iechyd porthladd*") means in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984(**g**), a port health authority for that district constituted by order under section 2(4) of that Act.

(2) Any term used in the definition of "Iranian pistachios" 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 into Wales any Iranian pistachios unless the conditions specified in Article 2.4, 2.5 and 2.7 of the Commission Decision are satisfied in relation to those

(a) OJ No. L343, 13.12.1997, p.30.

(b) OJ No. L176, 20.6.98, p.37.

(c) OJ No. L75, 24.3.2000, p.59.

(d) OJ No. L187, 26.7.2003, p.43.

(e) OJ No. L201, 17.7.1998, p.93.

(f) OJ No. L75, 16.3.2002, p.44.

(g) 1984 c.22.

perthynas â'r cnau pistasio hynny.

(2) Yn ddarostyngedig i baragraff (3), ni chaiff neb fewnforio i Gymru unrhyw gnau pistasio, heblaw drwy bwynt mynediad a restrir yn Atodiad II i Benderfyniad y Comisiwn.

(3) Rhaid peidio â deall na pharagraff (1) na pharagraff (2) fel petaent yn gwahardd mewnforio i Gymru o Aelod-wladwriaeth unrhyw gnau pistasio Iranaidd sydd mewn cylchrediad rhydd yn yr Aelod-wladwriaeth honno.

(4) Euog o dramgwydd yw unrhyw berson sy'n mynd yn groes i baragraff (1) neu (2), gan wybod hynny, ac mae'n agored ar gollfarn ddiannod i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol neu i garchar am dymor nad yw'n hwy na thri mis.

Gorfodi

4.-(1) Yn ddarostyngedig i baragraff (2), dyletswydd pob awdurdod iechyd porthladd yw gweithredu a gorfodi'r Rheoliadau hyn o fewn ei ardal.

(2) Mewn perthynas ag unrhyw le nad yw o fewn ardal awdurdod iechyd porthladd, rhaid i'r awdurdod bwyd ar gyfer yr ardal y mae'r lle hwnnw ynddi weithredu a gorfodi'r Rheoliadau hyn.

(3) At ddibenion arfer y dyletswydd y cyfeirir ato ym mharagraff (1) neu, yn ôl y digwydd, (2), rhaid i swyddog awdurdodedig yr awdurdod dan sylw-

(a) sicrhau y glynir wrth y gofynion y cyfeirir atynt ym mharagraff (4); a

(b) bod â'r un pwerau mynediad ag a roddir i swyddog awdurdodedig awdurdod gorfodi gan adran 32 o'r Ddeddf at ddibenion cysylltiedig â'r Ddeddf neu Reoliadau neu Orchmynion a wnaed o dan y Ddeddf.

(4) Y gofynion yw'r gofynion a bennir yn -

(a) Erthygl 2.4 o Benderfyniad y Comisiwn (sy'n ymwneud â gwirio'r dogfennau perthnasol i lwythau o gnau pistasio Iranaidd); a

(b) Erthyglau 2.5 a 2.6 o'r Penderfyniad hwnnw (y mae ei ddarpariaethau yn ymwneud â samplo a dadansoddi'r llwythau hynny), ac eithrio'r gofyniad o dan Erthygl 2.5 i roi gwybodaeth benodedig i'r Comisiwn.

(c) Erthygl 2.7 o'r Penderfyniad hwnnw (sy'n ymwneud â llwythi hollt).

(5) Rhaid i bob awdurdod iechyd porthladd ac awdurdod bwyd roi unrhyw gymorth a gwybodaeth i'r Ysgrifennydd Gwladol a'r Asiantaeth Safonau Bwyd y maent yn gofyn yn rhesymol amdano neu amdani mewn cysylltiad â gweithredu a gorfodi'r Rheoliadau hyn.

pistachios.

(2) Subject to paragraph (3), no person shall import into Wales any Iranian pistachios, 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 into Wales from a member State of any Iranian pistachios 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.

Enforcement

4.-(1) Subject to paragraph (2), it shall be the duty of each port health authority to execute and enforce these Regulations within its district.

(2) In relation to any place which is not situated in the district of a port health authority, these Regulations shall be executed and enforced by the food authority for the area in which that place is situated.

(3) For the purposes of the exercise of the duty referred to in paragraph (1) or, as the case may be, (2), an authorised officer of the authority concerned shall -

(a) ensure that the requirements referred to in paragraph (4) are adhered to; and

(b) have the same powers of entry as are bestowed on an authorised officer of an enforcement authority by section 32 of the Act for purposes connected with the Act or Regulations or Orders made under the Act.

(4) The requirements are those specified in -

(a) Article 2.4 of the Commission Decision (which is concerned with documentary checks relating to consignments of Iranian pistachios); and

(b) Article 2.5 and 2.6 of that Decision (which provisions are concerned with the sampling and analysis of such consignments), other than the requirement under Article 2.5 to supply the Commission with specified information; and

(c) Article 2.7 of that Decision (which is concerned with the case where consignments are split).

(5) Each port health authority and food authority shall give such assistance and information to the National Assembly for Wales and the Food Standards Agency as they may reasonably request in connection with the execution and enforcement of these Regulations.

Cymhwyso amryw ddarpariaethau o Ddeddf Diogelwch Bwyd 1990 a samplo a dadansoddi

5.-(1) Bydd darpariaethau canlynol y Ddeddf yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiad bod rhaid dehongli unrhyw gyfeiriad yn y darpariaethau hynny at y Ddeddf neu Ran ohoni fel cyfeiriad at y Rheoliadau hyn -

(a) adran 20 (tramgwyddau sy'n codi oherwydd bai person arall);

(b) adran 33(1) (rhwystro swyddogion etc.);

(c) adran 33(2), gyda'r addasiad y bernir bod y cyfeiriad at "any such requirement as is mentioned in subsection (1)(b) above" yn gyfeiriad at unrhyw ofyniad a grybwyllir yn adran 33(1)(b) fel y'i cymhwysir gan is-baragraff (b);

(ch) adran 35(1) (cosbi tramgwyddau), i'r graddau y mae'n berthnasol i dramgwyddau o dan adran 33(1) fel y'i cymhwysir gan is-baragraff (b);

(d) adran 35(2) a (3), i'r graddau y mae'n berthnasol i dramgwyddau o dan adran 33(2) fel y'i cymhwysir gan is-baragraff (c);

(dd) adran 36 (tramgwyddau gan gyrff corfforaethol); a

(e) adran 44 (amddiffyn swyddogion sy'n gweithredu'n ddidwyll).

(2) Mae adran 29 o'r Ddeddf (caffael samplau) yn gymwys at ddibenion y Rheoliadau hyn gyda'r addasiadau canlynol -

(a) bod y geiriau "a food authority or as the case may be a port health authority" yn cael eu rhoi yn lle "an enforcement authority";

(b) bod y ddarpariaeth a ganlyn yn cael ei rhoi yn lle is-adran (b)(ii) -

"(ii) is found by him at any premises which he is authorised to enter by virtue of regulation 4(3)(b) of the Food (Pistachios from Iran) (Emergency Control) (Wales) (No. 2) Regulations 2003";

(c) bod y pŵer i gymryd samplau o dan is-adrannau (b) a (d) yn cael ei gyfyngu i gymryd samplau yn unol â'r dulliau cymryd samplau a ddisgrifir yn Atodiad I i Gyfarwyddeb 98/53/EC neu yn unol â'r dulliau y cyfeirir atynt ynddo;

(ch) hepgorir is-adran (c); a

(d) bod y geiriau "the Food (Pistachios from Iran) (Emergency Control) (Wales) (No. 2) Regulations 2003" yn cael eu rhoi yn lle'r geiriau "any of the provisions of this Act or of regulations or orders made under it" yn is-adran (d);

(3) Pan fydd swyddog awdurdodedig wedi cymryd sampl o unrhyw gnau pistasio Iranaidd yn unol ag

Application of various provisions of the Food Safety Act 1990 and sampling and analysis

5.-(1) The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed as a reference to these Regulations -

(a) section 20 (offences due to fault of another person);

(b) section 33(1) (obstruction etc. of officers);

(c) section 33(2), with the modification that the reference to "any such requirement as is mentioned in subsection (1)(b) above" shall be deemed to be a reference to any such requirement as is mentioned in section 33(1)(b) as applied by sub-paragraph (b);

(d) section 35(1) (punishment of offences), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (b);

(e) section 35(2) and (3), in so far as it relates to offences under section 33(2) as applied by sub-paragraph (c);

(f) section 36 (offences by bodies corporate); and

(g) section 44 (protection of officers acting in good faith).

(2) Section 29 of the Act (procurement of samples) shall apply for the purposes of these Regulations with the modifications that -

(a) for the words "an enforcement authority" there shall be substituted the words "a food authority or as the case may be a port health authority";

(b) for subsection (b)(ii) there shall be substituted the following provision -

"(ii) is found by him at any premises which he is authorised to enter by virtue of regulation 4(3)(b) of the Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003";

(c) the power to take samples under subsections (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;

(d) subsection (c) shall be omitted; and

(e) for the words "any of the provisions of this Act or of regulations or orders made under it" in subsection (d) there shall be substituted the words "the Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003".

(3) Where, pursuant to section 29(b) of the Act as applied for the purposes of these Regulations by

adran 29(b) o'r Ddeddf fel y'i cymhwysir at ddibenion y Rheoliadau hyn gan baragraff (2), rhaid iddo sicrhau-

(a) bod y sampl yn cael ei pharatoi-

(i) yn unol â pharagraffau 1.1, 2 a 3 o Atodiad II i Gyfarwyddeb 98/53/EC, a

(ii) yn achos cnau cyfain, yn unol â pharagraff 1.2 o'r Atodiad hwnnw;

(b) bod dadansoddiad o'r sampl yn cael ei wneud mewn labordy sy'n cydymffurfio â Chyfarwyddeb y Cyngor 93/99/EEC ar bwnc mesurau ychwanegol ynghylch rheolaeth swyddogol ar fwydydd(**a**);

(c) bod dadansoddiad yn cael ei wneud cyn gynted ag sy'n bosibl gan ddadansoddwr sydd wedi'i gymhwyso'n briodol yn unol â dulliau dadansoddi sydd-

(i) cyn belled ag y bo'n ymarferol, yn cydymffurfio â pharagraffau 1 a 2 o'r Atodiad i Gyfarwyddeb y Cyngor 85/591/EEC sy'n ymwneud â chyflwyno dulliau'r Gymuned o samplo a dadansoddi ar gyfer monitro bwydydd sydd i'w bwyta gan bobl(**b**), a

(ii) yn bodloni'r meini prawf a bennir ym mharagraff 4.3 o Atodiad II i Gyfarwyddeb 98/53/EC fel y'i darllenir ynghyd â'r nodiadau sydd iddo; ac

(ch) bod yr adroddiad am ganlyniad y dadansoddi hwnnw -

(i) defnyddio'r diffiniadau ym mharagraff 4.1 o Atodiad II i Gyfarwyddeb 98/53/EC, a

(ii) yn cyd-fynd â pharagraff 4.4 o'r Atodiad hwnnw.

(4) Cyn i ddadansoddwr gytuno i ddadansoddi sampl yn unol â pharagraff (3)(c), caiff fynnu cael ei dalu unrhyw ffi resymol y mae'n gofyn amdano.

(5) Rhaid i ddadansoddwr sydd wedi dadansoddi sampl yn unol â pharagraff (3)(c) roi i'r person a'i rhoddodd iddo dystysgrif a fydd yn pennu canlyniad y dadansoddi ac a fydd wedi'i llofnodi gan y dadansoddwr.

(6) Mewn unrhyw achos o dan y Rheoliadau hyn, os bydd un parti yn cyflwyno -

(a) dogfen sy'n honni bod yn dystysgrif a roddwyd gan ddadansoddwr o dan baragraff (5); neu

(b) dogfen a roddwyd iddo gan y parti arall fel copi o dystysgrif o'r fath,

yn dystiolaeth ddigonol o'r ffeithiau sy'n cael eu datgan ynddi oni bai, mewn achos sy'n dod o fewn is-baragraff (a), bod y parti arall yn gofyn i'r dadansoddwr gael ei alw fel tyst.

(a) OJ Rhif L290, 24.11.93, t.14.

(b) OJ Rhif L372, 31.12.85, t.50.

paragraph (2), an authorised officer has taken a sample of any Iranian pistachios, that officer 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(**a**);

(c) that analysis is carried out as soon as practicable by a suitably qualified analyst in accordance with methods of analysis which -

(i) so far as practicable, comply with paragraphs 1 and 2 of the Annex to Council Directive 85/591/EEC concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs intended for human consumption(**b**), and

(ii) meet the criteria specified in paragraph 4.3 of Annex II to Directive 98/53/EC as read with the notes thereto; and

(d) the reporting of the result of that analysis -

(i) makes use of the definitions in paragraph 4.1 of Annex II to Directive 98/53/EC, and

(ii) is in accordance with paragraph 4.4 of that Annex.

(4) Before an analyst agrees to analyse a sample in accordance with paragraph (3)(c) that analyst may demand the payment in advance of such reasonable fee as he or she may require.

(5) An analyst who has analysed a sample in accordance with paragraph (3)(c) shall give to the person by whom it was submitted a certificate which shall both specify the result of the analysis and be signed by the analyst.

(6) In any proceedings under these Regulations, the production by one of the parties of -

(a) a document purporting to be a certificate given by an analyst under paragraph (5); or

(b) a document supplied to him by the other party as being a copy of such a certificate,

shall be sufficient evidence of the facts stated in it unless, in a case falling within sub-paragraph (a), the other party requires that the analyst shall be called as a witness.

(a) OJ No. L290, 24.11.93, p.14.

(b) OJ No. L372, 31.12.85, p.50.

(7) Pan fydd sampl a gafwyd o dan adran 29 o'r Ddeddf fel y'i cymhwyswyd at ddibenion y Rheoliadau hyn gan baragraff (2) wedi'i dadansoddi yn unol â pharagraff 3(b) ac (c), bydd gan y perchennog hawl ar gais i gael copi o'r dystysgrif ddadansoddi gan yr awdurdod sydd, yn rhinwedd rheoliad 4(1) neu (2), â'r dyletswydd o'u gorfodi.

(8) Nid yw dim ym mharagraff (3)(c) i'w gymryd fel petai'n atal rhywun sy'n gweithio o dan gyfarwyddyd dadansoddwr rhag gwneud dadansoddiad.

Ail-anfon neu ddistrywio mewnforion anghyfreithlon

6.-(1) Wedi arolygu neu archwilio unrhyw gnau pistasio Iranaidd, os yw'n ymddangos i swyddog awdurdodedig awdurdod iechyd porthladd neu, yn ôl y digwydd, awdurdod bwyd, eu bod wedi'u mewnforio yn groes i reoliad 3(1) neu (2), wedi iddo ymgynghori'n briodol â pherson y mae'n ymddangos iddo mai ef yw'r mewnforiwr, caiff gyflwyno hysbysiad i'r person hwnnw sy'n gorchymyn -

(a) ail-anfon y cnau pistasio Iranaidd y tu allan i'r Gymuned Ewropeaidd o fewn y cyfnod rhesymol a bennir yn yr hysbysiad; neu

(b) (petai'r ail-anfon hwnnw yn ei farn ef yn creu peryglon difrifol i iechyd pobl), distrywio'r cnau pistasio Iranaidd o fewn y cyfnod rhesymol a bennir.

(2) Mewn unrhyw achos pan ganiateir dwyn apêl o'r math a grybwyllir ym mharagraff (3) rhaid i'r hysbysiad a gyflwynir o dan baragraff (1) ddatgan -

(a) bod hawl apelio i lys ynadon; ac

(b) y cyfnod erbyn pryd y caniateir dwyn yr apêl.

(3) Caiff unrhyw berson sy'n tybio iddo gael cam oherwydd penderfyniad swyddog awdurdodedig i gyflwyno hysbysiad o dan baragraff (1) apelio i lys ynadon a fydd yn penderfynu a gyflwynwyd yr hysbysiad yn gyfreithlon ai peidio.

(4) Chwe diwrnod o'r dyddiad pryd cyflwynwyd yr hysbysiad ac eithrio dydd Sadwrn, dydd Sul a Gwyliau Cyhoeddus yw'r cyfnod erbyn pryd y caniateir dwyn yr apêl a grybwyllir ym mharagraff (3) ac at ddibenion y paragraff hwn bernir bod gwneud y gŵyn yn gyfystyr â dwyn yr apêl.

(5) Pan wneir apêl i lys ynadon o dan baragraff (3) y weithdrefn fydd ei wneud drwy gyfrwng cwyn ar gyfer gorchymyn a Deddf Llysoedd Ynadon 1980(**a**) fydd yn gymwys i'r achos.

(6) Os yw'r llys yn caniatáu apêl o dan baragraff (3) rhaid i'r awdurdod dan sylw dalu iawndal i berchennog y cnau pistasio Iranaidd dan sylw am unrhyw ddibrisiant yn eu gwerth sy'n dod yn sgil y camau a

(a) 1980 p. 43.

(7) Where a sample procured under section 29 of the Act as applied for the purposes of these Regulations by paragraph (2) has been analysed in accordance with paragraph (3)(b) and (c), the owner shall be entitled on request to be supplied with a copy of the certificate of analysis by the authority which, by virtue of regulation 4(1) or (2), has the duty of enforcing them.

(8) Nothing in paragraph (3)(c) shall be taken as preventing an analysis being made by a person acting under the analyst's direction.

Re-dispatch or destruction of illegal imports

6.-(1) If on an inspection or examination of any Iranian pistachios it appears to an authorised officer of a port health authority or as the case may be food authority that they have been imported in contravention of regulation 3(1) or (2) he or she may after appropriate consultation with a person appearing to him or her to be the importer serve on that person a notice ordering -

(a) the re-dispatch of the Iranian pistachios outside the European Community within such reasonable period as shall be specified in the notice; or

(b) (where such re-dispatch would in the officer's opinion involve serious risks to human health) the destruction of the Iranian pistachios within such reasonable period as shall be so specified.

(2) In any case where such an appeal as is mentioned in paragraph (3) may be brought the notice served under paragraph (1) shall state -

(a) the right of appeal to a magistrates' court; and

(b) the period within which such an appeal may be brought.

(3) Any person who is aggrieved by a decision of an authorised officer to serve a notice under paragraph (1) may appeal to a magistrates' court, which shall determine whether or not the notice was lawfully served.

(4) The period within which such an appeal as is mentioned in paragraph (3) may be brought shall be 6 days from the date on which the notice was served exclusive of Saturdays, Sundays and Public Holidays and the making of the complaint shall be deemed for the purpose of this paragraph to be the bringing of the appeal.

(5) The procedure on an appeal to a magistrates' court under paragraph (3) shall be by way of complaint for an order and the Magistrates' Court Act 1980(**a**) shall apply to the proceedings.

(6) If the court allows an appeal brought under paragraph (3) the authority concerned shall compensate the owner of the Iranian pistachios concerned for any depreciation in their value resulting

(a) 1980 c. 43.

gymerwyd gan y swyddog awdurdodedig.

(7) Penderfynir unrhyw gwestiwn y mae dadl yn ei gylch ynghylch hawl i iawndal neu swm iawndal sy'n daladwy o dan baragraff (6) drwy gymrodeddu.

(8) Bydd unrhyw berson sy'n torri telerau hysbysiad a gyflwynir o dan baragraff (1) yn euog o dramgwydd ac yn agored ar gollfarn ddiannod i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol neu i garchar am dymor nad yw'n hwy na thri mis.

Dirymu Gorchymyn Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) 1997, Gorchymyn Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Diwygio) 1997 a Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) 2003

7. Mae Gorchymyn Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) 1997(**a**), Gorchymyn Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Diwygio) 1997(**b**) a Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) 2003(**c**) yn cael eu dirymu i'r graddau y maent yn gymwys i Gymru.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(**ch**)

5 Medi 2003

Y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol

from the action taken by the authorised officer.

(7) Any disputed question as to the right to or the amount of any compensation payable under paragraph (6) shall be determined by arbitration.

(8) Any person who breaches the terms of a notice served under 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.

Revocation of the Food (Pistachios from Iran) (Emergency Control) Order 1997, The Food (Pistachios from Iran) (Emergency Control) (Amendment) Order 1997 and the Food (Pistachios from Iran) (Emergency Control) (Wales) Regulations 2003

7. The Food (Pistachios from Iran) (Emergency Control) Order 1997(**a**), the Food (Pistachios from Iran) (Emergency Control) (Amendment) Order 1997(**b**) and the Food (Pistachios from Iran) (Emergency Control) (Wales) Regulations 2003(**c**) are revoked so far as they apply to Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**d**)

5th September 2003

Jane Hutt

Minister for Health and Social Services

(a) O.S. 1997/2238.
(b) O.S. 1997/3046.
(c) O.S. 2003/1119 (Cy.150).
(ch) 1998 p.38.

(a) S.I. 1997/2238.
(b) S.I. 1997/3046.
(c) S.I.2003/1119 (W.150).
(d) 1998 c.38.

OFFERYNNAU STATUDOL

2003 Rhif 2288 (Cy.227)

BWYD, CYMRU

Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) 2003

STATUTORY INSTRUMENTS

2003 No. 2288 (W.227)

FOOD, WALES

The Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003

©ⓗ Hawlfraint y Goron 2003

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

© Crown copyright 2003

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

ISBN 0-11-090780-9

9 780110 907802

£2.50

W166/09/03 ON