



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2003 Rhif 2910 (Cy.276)

2003 No. 2910 (W.276)

BWYD, CYMRU

FOOD, WALES

Rheoliadau Bwyd (Pysgnau o'r Aiff) (Rheolaeth Frys) (Cymru) 2003

The Food (Peanuts from Egypt) (Emergency Control) (Wales) Regulations 2003

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn dirymu ac yn ailddeddfu gyda newidiadau Orchymyn Bwyd (Pysgnau o'r Aiff) (Rheolaeth Frys) (Lloegr a Chymru) 2000 i'r graddau y mae'n gymwys mewn perthynas â Chymru.

These Regulations revoke and re-enact with changes the Food (Peanuts from Egypt) (Emergency Control) (England and Wales) Order 2000 in so far as it applies in relation to Wales.

Mae'r Rheoliadau hyn yn gweithredu Penderfyniad y Comisiwn 2000/49/EC gan ddi-ddymu Penderfyniad 1999/356/EC a chan osod amodau arbennig ar fewnforio pysgnau a chynhyrchion penodol sy'n deillio o bysgnau sy'n tarddu o'r Aiff neu sy'n cael eu traddodi o'r Aiff (OJ Rhif L19, 25.1.2000, t. 46) fel y'i diwygiwyd gan Benderfyniad y Comisiwn 2003/580/EC (OJ Rhif L197, 5.8.03, t.31).

These Regulations implement Commission Decision 2000/49/EC repealing Decision 1999/356/EC and imposing special conditions on the import of peanuts and certain products derived from peanuts originating in or consigned from Egypt (OJ No. L19, 25.1.2000, p.46) as amended by Commission Decision 2003/580/EC (OJ No. L197, 5.8.03, p.31).

Pennir y categorïau o gynhyrchion sy'n ddarostyngedig i'r amodau hynny yn Erthygl 1.1 o Benderfyniad y Comisiwn 2002/49/EC fel y'i diwygiwyd felly.

The categories of products which are subject to those conditions are specified in Article 1.1 of Commission Decision 2002/49/EC as so amended.

Mae'r Rheoliadau-

The Regulations -

- (a) yn gwahardd mewnforio "pysgnau o'r Aiff a reolir" (a ddiffinnir yn rheoliad 2(1)), ac eithrio lle ceir gyda hwy dystysgrif iechyd Llywodraeth yr Aiff a chanlyniadau samplu a dadansoddi swyddogol, lle mae'r mewnforio yn digwydd yn unig trwy bwynt mynediad penodol a lle mae'r llwyth yn cael ei nodi gyda chod sy'n cyfateb i'r hyn a bennir ar y dystysgrif iechyd ac ar yr adroddiad sy'n cynnwys canlyniadau'r samplu a dadansoddi (*rheoliad 3*);
- (b) yn darparu ar gyfer eu gorfodi (*rheoliad 4*);

- (a) prohibit the importation of "controlled Egyptian peanuts" (defined in regulation 2(1)), except where they are accompanied by an Egyptian Government health certificate and the results of official sampling and analysis, the importation takes place only through a specified point of entry and the consignment is identified with a code corresponding with that specified on the health certificate and on the accompanying report containing the sampling and analysis results (*regulation 3*);
- (b) provide for their enforcement (*regulation 4*);

- (c) yn cymhwyso gydag addasiadau rai o ddarpariaethau'r Ddeddf Diogelwch Bwyd at ddibenion y Rheoliadau ac yn darparu ar gyfer samplu a dadansoddi (*rheoliad 5*); ac
- (ch) yn darparu ar gyfer ailanfôn neu ddistrywio mewnfôrion anghyfreithlon o bysgnau o'r Aifft a reolir (*rheoliad 6*).

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

- (a) addaswyd y gofyniad blaenorol bod pob llwyth o bysgnau o'r Aifft a reolir yn ddarostyngedig i'w samplu a'i ddadansoddi er mwyn sicrhau cydymffurfedd â Phenderfyniad y Comisiwn 2002/49/EC drwy ddarparu -
 - (i) na ddylai ond tua 20% o'r llwythau hynny a ddetholir ar hap fod yn ddarostyngedig i'r samplu a'r dadansoddi hwnnw,
 - (ii) bod rhaid cadw'r llwythau darostyngedig hynny at y diben hwnnw,
 - (iii) na dylai'r cyfnod cadw fod yn fwy na 15 diwrnod gwaith, a
 - (iv) bod rhaid i swyddog awdurdodedig o'r awdurdod gorfodi perthnasol gyhoeddi hysbysiad ysgrifenedig sy'n datgan bod samplu wedi digwydd a chyhoeddi canlyniadau dadansoddi'r sampl; a
- (b) mae gan swyddog awdurdodedig yr awdurdod gorfodi perthnasol y pŵer (yn ddarostyngedig i hawl i apelio i lys ynadon) i ddyroddi hysbysiad sy'n gorchymyn ailanfôn mewnfôrion anghyfreithlon o bysgnau o'r Aifft a reolir.

Y codau CN y cyfeirir atynt yn y diffiniad o "pysgnau o'r Aifft" yn rheoliad 2(1) yw rhifau cod y gyfundrefn enwi cyfun a sefydlwyd gan Reoliad y Cyngor 2658/87 ar y tariff a'r enwau ystadegol ac ar y tariff tollau (OJ Rhif L256, 7.9.87, t.1).

Nid oes arfarniad rheoliadol wedi'i baratoi mewn perthynas â'r Rheoliadau hyn.

- (c) apply with modifications certain provisions of the Food Safety Act 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 controlled Egyptian peanuts (*regulation 6*).

The principal changes effected by these Regulations are that -

- (a) the previous requirement that each consignment of controlled Egyptian peanuts be subjected to sampling and analysis in order to ensure compliance with Commission Decision 2002/49/EC is modified by providing that -
 - (i) only approximately 20% of such consignments selected at random should be so subjected,
 - (ii) consignments so subjected must be detained for that purpose,
 - (iii) the period of detention should not exceed 15 working days, and
 - (iv) 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 controlled Egyptian peanuts.

The CN codes referred to in the definition of "Egyptian peanuts" in regulation 2(1) 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.

2003 Rhif 2910 (Cy.276)**2003 No. 2910 (W.276)****BWYD, CYMRU****FOOD, WALES****Rheoliadau Bwyd (Pysgnau o'r Aifft) (Rheolaeth Frys) (Cymru) 2003****The Food (Peanuts from Egypt) (Emergency Control) (Wales) Regulations 2003***Wedi'u gwneud* 12 Tachwedd 2003*Made* 12th November 2003*Yn dod i rym* 14 Tachwedd 2003*Coming into force* 14th November 2003

Mae Cynulliad Cenedlaethol Cymru, ac yntau 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:

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:

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Bwyd (Pysgnau o'r Aifft) (Rheolaeth Frys) (Cymru) 2003 a deuant i rym ar 14 Tachwedd 2003.

Title, commencement and extent

1.-(1) These Regulations may be cited as the Food (Peanuts from Egypt) (Emergency Control) (Wales) Regulations 2003 and shall come into force on 14th November 2003.

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

(2) These Regulations apply in relation to Wales only.

Dehongli**Interpretation**

2.-(1) Yn y Rheoliadau hyn -

2.-(1) In these Regulations -

mae i "awdurdod bwyd" yr un ystyr â "food authority" yn adran 5(1A) a (3)(a) a (b) o'r Ddeddf;

"the Act" ("y *Ddeddf*") means the Food Safety Act 1990(c) and, save where the context otherwise requires and subject to paragraph (2), any expression used both in these Regulations and in the Act has the meaning it bears in the Act;

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(c), yw awdurdod iechyd porthladd am ar ardal honno a sefydlwyd drwy orchymyn o dan adran 2(4) o'r Ddeddf honno.

"the Commission Decision" ("*Penderfyniad y Comisiwn*") means Commission Decision 2000/49/EC repealing Decision 1999/356/EC and imposing special conditions on the import of peanuts and certain products derived from peanuts originating in or consigned from Egypt(d) as amended by Commission Decision 2003/580/EC(e);

ystyr "Cyfarwyddeb 98/53/EC" ("*Directive 98/53/EC*") yw Cyfarwyddeb y Comisiwn 98/53/EC sy'n gosod y dulliau samplu a

(a) O.S. 1999/2788.

(a) S.I. 1999/2788.

(b) 1972 p.68.

(b) 1972 c.68.

(c) 1984 p.22.

(c) 1990 c.16.

(d) OJ No. L19, 25.1.2000, p.46.

(e) OJ No. L197, 5.8.03, p.31.

dadansoddi ar gyfer rheolaeth swyddogol ar lefelau halogion penodol mewn bwydydd(a) fel y'i diwygiwyd gan Gyfarwyddeb 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; ac

ystyr "y Ddeddf" ("*the Act*") yw Deddf Diogelwch Bwyd 1990(c) ac, onid yw'r cyddestun yn mynnu fel arall ac yn ddarostyngedig i baragraff (2), mae i unrhyw ymadrodd a ddefnyddir yn y Rheoliadau hyn ac yn y Ddeddf yr ystyr a roddir i'r ymadrodd Saesneg cyfatebol yn y Ddeddf;

ystyr "Penderfyniad y Comisiwn" ("*the Commission Decision*") yw Penderfyniad y Comisiwn 2000/49/EC sy'n diddymu Penderfyniad 1999/356/EC ac sy'n gosod amodau arbennig ar fewnforio pysgnau a chynhyrchion penodol sy'n deillio o bysgnau sy'n tarddu o'r Aifft neu'n cael eu traddodi o'r Aifft(ch) fel y'i diwygiwyd gan Benderfyniad y Comisiwn 2003/580/EC(d);

ystyr "pysgnau o'r Aifft" ("*Egyptian peanuts*") yw -

- (a) pysgnau sy'n dod o fewn cod CN 1202 10 90 yn eu plisg neu o fewn cod 1202 20 00 heb eu plisg, p'un a ydynt wedi'u torri ai peidio; a
- (b) pysgnau rhost sy'n dod o fewn cod CN 2008 11 92 (mewn pecynnau uniongyrchol o gynnwys net dros 1 kg) neu o fewn cod CN 2008 11 96 (mewn pecynnau uniongyrchol o gynnwys net nad yw dros 1 kg),

sy'n tarddu o'r Aifft neu'n cael eu traddodi o'r Aifft;

ystyr "pysgnau o'r Aifft a reolir" ("*controlled Egyptian peanuts*") yw pysgnau o'r Aifft y bwriedir i bobl eu bwyta neu i'w defnyddio fel cynhwysyn mewn bwydydd;

(2) Mae i unrhyw derm a ddefnyddir yn y diffiniad o "pysgnau o'r Aifft" ("*Egyptian peanuts*") neu "pysgnau o'r Aifft a reolir" ("*controlled Egyptian peanuts*") ym mharagraff (1) yr un ystyr â'r termau cyfatebol ym Mhenderfyniad y Comisiwn.

"controlled Egyptian peanuts" ("*pysgnau o'r Aifft a reolir*") means Egyptian peanuts which are intended for human consumption or to be used as an ingredient in foodstuffs;

"Egyptian peanuts" ("*pysgnau o'r Aifft*") means -

- (a) peanuts falling within CN code 1202 10 90 in shell or within CN code 1202 20 00 shelled, whether or not broken; and
- (b) roasted peanuts falling with CN code 2008 11 92 (in immediate packs of a net content exceeding 1 kg) or within CN code 2008 11 96 (in immediate packs of a net content not exceeding 1 kg), originating in or consigned from Egypt;

"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(a) as amended by Commission Directive 2002/27/EC(b);

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

"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 (c), 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 "Egyptian peanuts" or "controlled Egyptian peanuts" in paragraph (1) has the same meaning as in the Commission Decision.

(a) OJ Rhif L201, 17.7.98, t.93.

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

(c) 1990 p.16.

(ch) OJ Rhif L19, 25.1.2000, t.46.

(d) OJ Rhif L197, 5.8.03, t.31.

(a) OJ No. L201, 17.7.98, p.93.

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

(c) 1984 c.22.

Gwaharddiad ar fewnforio

3.-(1) Yn ddarostyngedig i baragraff (3), ni chaiff neb fewnforio i Gymru unrhyw bysgnau o'r Aifft a reolir oni bai bod yr amodau a bennir yn Erthygl 1.1, 3, 5 a 7 o Benderfyniad y Comisiwn wedi'u bodloni mewn perthynas â'r pysgnau hynny.

(2) Yn ddarostyngedig i baragraff (3), ni chaiff neb fewnforio i Gymru unrhyw bysgnau o'r Aifft a reolir, ac eithrio trwy bwynt mynediad a restrir yn Atodiad II i Benderfyniad y Comisiwn.

(3) Rhaid peidio â deall pharagraff (1) na pharagraff (2) fel petaent yn gwahardd fewnforio i Gymru o Aelod-wladwriaeth unrhyw bysgnau o'r Aifft a reolir ac sydd mewn cylchrediad rhydd yn yr Aelod-wladwriaeth honno.

(4) Bydd unrhyw berson sy'n mynd yn groes i baragraff (1) neu (2) yn fwiadol, yn euog o dramgwydd a bydd yn agored o'i gollfarnu'n 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.

(5) At ddibenion penderfynu a yw person yn euog o dramgwydd sy'n deillio o dorri paragraff (4) neu beidio, rhaid cymryd mai pysgnau o'r Aifft a reolir yw unrhyw bysgnau o'r Aifft hyd nes y profir i'r gwrthwyneb.

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 wedi'i leoli o fewn ardal awdurdod iechyd porthladd, rhaid i'r awdurdod bwyd ar gyfer yr ardal y mae'r lle hwnnw wedi'i lleoli ynddi weithredu a gorfodi'r Rheoliadau hyn.

(3) At ddibenion arfer y ddyletswydd y cyfeirir ati 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 sy'n gysylltiedig â'r Ddeddf neu Reoliadau neu Orchmynion a wneir o dan y Ddeddf.

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

- (a) Erthygl 1.4 o Benderfyniad y Comisiwn (sy'n cyfeirio at wirio'r dogfennau sy'n ymwneud â llwythau o bysgnau o'r Aifft a reolir);
- (b) Erthyglau 1.5 a 6 o'r Penderfyniad hwnnw (y mae ei ddarpariaethau'n ymwneud â samplu a dadansoddi'r llwythau hynny), ac eithrio'r gofyniad o dan Erthygl 1.5 i roi gwybodaeth benodedig i'r Comisiwn; ac

Prohibition on import

3.-(1) Subject to paragraph (3), no person shall import into Wales any controlled Egyptian peanuts unless the conditions specified in Article 1.1, 3, 5 and 7 of the Commission Decision are satisfied in relation to those peanuts.

(2) Subject to paragraph (3), no person shall import into Wales any controlled Egyptian 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 into Wales from a member State of any controlled Egyptian 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 Egyptian peanuts shall be presumed until the contrary is proved to be controlled Egyptian peanuts.

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 1.4 of the Commission Decision (which is concerned with documentary checks relating to consignments of controlled Egyptian peanuts);
- (b) Article 1.5 and 6 of that Decision (which is concerned with the sampling and analysis of such consignments), other than the requirement under Article 1.5 to supply the Commission with specified information; and

- (c) Erthygl 1.7 o'r Penderfyniad hwnnw (sy'n ymwneud ag achosion o holli llwythi).

(5) Rhaid i bob awdurdod iechyd porthladd ac awdurdod bwyd roi unrhyw gymorth a gwybodaeth i Gynulliad Cenedlaethol Cymru a'r Asiantaeth Safonau Bwyd y maent yn gofyn yn rhesymol amdanynt mewn cysylltiad â gweithredu a gofodi'r Rheoliadau hyn.

Cymhwyso darpariaethau amrywiol Deddf Diogelwch Bwyd 1990 a samplu 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 etc. swyddogion);
- (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 ymwneud â thrangwyddau 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 ymwneud â thrangwyddau o dan adran 33(2) fel y'i cymhwysir gan is-baragraff (c);
- (dd) adran 36 (tramgwyddau gan gyrff corfforaethol); ac
- (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 (Peanuts from Egypt) (Emergency Control) (Wales) 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;

- (c) Article 1.7 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.

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 (Peanuts from Egypt) (Emergency Control) (Wales) 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;

- (ch) bod is-adran (c) yn cael ei hepgor; ac
- (d) bod y geiriau "the Food (Peanuts from Egypt (Emergency Control) (Wales) 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 bysgnau o'r Aiff a reolir yn unol ag 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 cyfan, 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 y bo'n ymarferol gan ddadansoddwr sydd â chymwysterau addas 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 samplu a dadansoddi ar gyfer monitro bwydydd y bwriedir i bobl eu bwyta (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 adrodd ar ganlyniad y dadansoddi hwnnw -
- (i) yn defnyddio'r diffiniadau ym mharagraff 4.1 o Atodiad II o Gyfarwyddeb 98/53/EC, a
- (ii) yn cydymffurfio â pharagraff 4.4 o'r Atodiad hwnnw.

(4) Cyn i ddadansoddwr gytuno i ddadansoddi sampl yn unol â pharagraff (3)(c) caiff y dadansoddwr fynnu bod y cyfryw ffi ag y gallai ofyn amdani yn cael ei thalu ymlaen llaw.

(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.

- (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 (Peanuts from Egypt) (Emergency Control) (Wales) Regulations 2003".

(3) Where, pursuant to section 29(b) of the Act as applied for the purposes of these Regulations by paragraph (2), an authorised officer has taken a sample of any controlled Egyptian peanuts, 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) the 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.

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

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

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

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

(6) Mewn unrhyw achos o dan y Rheoliadau hyn, os bydd y naill barti neu'r llall yn cyflwyno'r canlynol -

- (a) dogfen sy'n honni bod yn dystysgrif a roddwyd gan ddadansoddwr o dan baragraff (5); neu
- (b) dogfen a roddwyd i'r dadansoddwr gan y parti arall fel copi o'r dystysgrif honno,

bydd hon 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.

(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 ddyletswydd o'u gofodi.

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

Ailanfon neu ddistrywio mewnforion anghyfreithlon

6.-(1) Wedi arolygu neu archwilio unrhyw bysgnau o'r Aifft, 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), caiff y swyddog awdurdodedig, ar ôl ymgynghori'n briodol â pherson y mae'n ymddangos iddo mai ef yw'r mewnforiwr, gyflwyno hysbysiad i'r person hwnnw a'r hysbysiad hwnnw'n gorchymyn -

- (a) ailanfon y pysgnau o'r Aifft y tu allan i'r Gymuned Ewropeaidd o fewn y cyfnod rhesymol a bennir yn yr hysbysiad; neu
- (b) (lle y byddai'r ailanfon hwn ym marn y swyddog awdurdodedig yn creu peryglon difrifol i iechyd pobl), distrywio'r pysgnau o'r Aifft o fewn y cyfnod rhesymol a bennir.

(2) Mewn unrhyw achos lle caniateir 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; a
- (b) y cyfnod erbyn pryd y caniateir dwyn yr apêl.

(3) Caiff unrhyw berson a dramgwyddir gan benderfyniad swyddog awdurdodedig i gyflwyno hysbysiad o dan baragraff (1) apelio i lys ynadon a fydd yn penderfynu a gyflwynwyd yr hysbysiad yn gyfreithlon neu beidio.

(4) Chwe diwrnod o'r dyddiad pan gyflwynwyd yr hysbysiad ac eithrio dydd Sadwrn, dydd Sul a Gwyliau Cyhoeddus yw'r cyfnod erbyn pryd y caniateir dwyn yr

(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 the analyst 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.

(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 Egyptian peanuts 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) the authorised officer may after appropriate consultation with a person appearing to him to be the importer serve on that person a notice ordering -

- (a) the re-dispatch of the Egyptian peanuts outside the European Community within such reasonable period as shall be specified in the notice; or
- (b) (where such re-dispatch would in the authorised officer's opinion involve serious risks to human health) the destruction of the Egyptian peanuts 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

apêl a grybwyllir ym mharagraff (3) ac at ddibenion y paragraff hwn bernir bod gwneud y gwyn yn gyfystyr â dwyn yr apêl.

(5) Y weithdrefn ar apêl i lys ynadon o dan baragraff (3) fydd trwy gyfrwng cwyn yn erbyn gorchymyn a Deddf Llysoedd Ynadon 1980(a) fydd yn gymwys i'r achos.

(6) Os bydd y llys yn caniatáu apêl o dan baragraff (3) rhaid i'r awdurdod o dan sylw dalu iawndal i berchennog y pysgnau o'r Aifft o dan sylw am unrhyw ddibrisiant yn eu gwerth sy'n deillio o'r camau a gymerwyd gan y swyddog awdurdodedig.

(7) Penderfynir ar unrhyw gwestiwn sy'n destun dadl ynghylch yr hawl i gael iawndal neu swm unrhyw 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, o'i gollfarnu'n 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 (Pysgnau o'r Aifft) (Rheolaeth Frys) (Cymru a Lloegr) 2000

7. Dirymir Gorchymyn Bwyd (Pysgnau o'r Aifft) (Rheolaeth Frys) (Cymru a Lloegr) 2000(b) i'r graddau y mae'n gymwys mewn perthynas â Chymru.

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

12 Tachwedd 2003

Llywydd y Cynulliad Cenedlaethol

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' Courts 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 Egyptian peanuts concerned for any depreciation in their value resulting 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 (Peanuts from Egypt) (Emergency Control) (England and Wales) Order 2000

7. The Food (Peanuts from Egypt) (Emergency Control) (England and Wales) Order 2000(b) is revoked in so far as it applies in relation to Wales.

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

12th November 2003

The Presiding Officer of the National Assembly

D. Elis-Thomas

(a) 1980 p.43.

(b) O.S. 2000/375.

(c) 1998 p.38.

(a) 1980 c.43.

(b) S.I. 2000/375.

(c) 1998 c.38.

OFFERYNNAU STATUDOL

2003 Rhif 2910 (Cy.276)

BWYD, CYMRU

Rheoliadau Bwyd (Pysgnau o'r
Aifft) (Rheolaeth Frys) (Cymru)
2003

STATUTORY INSTRUMENTS

2003 No. 2910 (W.276)

FOOD, WALES

The Food (Peanuts from Egypt)
(Emergency Control) (Wales)
Regulations 2003

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