



**CYNULLIAD CENEDLAETHOL CYMRU**

**NATIONAL ASSEMBLY FOR WALES**

**OFFERYNNAU STATUDOL**

**STATUTORY INSTRUMENTS**

**2005 Rhif 257 (Cy.23)**

**2005 No. 257 (W.23)**

**BWYD, CYMRU**

**FOOD, WALES**

**Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) (Diwygio) 2005**

**The Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) (Amendment) Regulations 2005**

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

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

*(This note is not part of the Regulations)*

1. Mae'r Rheoliadau hyn yn diwygio ymhellach Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) 2003 (O.S. 2003/2288 fel y'i diwygiwyd gan O.S. 2004/245 ac O.S. 2004/1804). Rhoddodd y Rheoliadau hynny ar waith Benderfyniad y Comisiwn 97/830/EC sy'n diddymu Penderfyniad y Comisiwn 97/613/EC ac sy'n gosod amodau arbennig ar fewnforio cnau pistasio a chynhyrchion penodol sy'n deillio o gnau pistasio sy'n tarddu o Iran, neu sydd wedi'u traddodi oddi yno (OJ Rhif L343, 13.12.97, t.30) fel y'i diwygiwyd ddiwethaf gan Benderfyniad y Comisiwn 2004/429/EC (OJ Rhif L154, 30.04.2004 t.20). Mae'r diwygiadau sy'n cael eu gwneud gan y Rheoliadau hyn yn rhoi ar waith Benderfyniad y Comisiwn 2005/85/EC, a elwir "y Penderfyniad newydd", sy'n gosod amodau arbennig ar fewnforio cnau pistasio a chynhyrchion penodol sy'n deillio o gnau pistasio sy'n tarddu o Iran, neu sydd wedi'u traddodi oddi yno (OJ Rhif L30, 3.2.2005, t.12). Diddymodd y Penderfyniad newydd Benderfyniad y Comisiwn 97/830/EC.

2. Y gwahaniaethau pwysig rhwng y Penderfyniad newydd a Phenderfyniad y Comisiwn 97/830/EC yw -

- (a) bod Erthygl 1.1 o'r Penderfyniad newydd yn darparu bod y dystysgrif iechyd y mae'n ofynnol iddi fynd gyda llwyth o "cnau pistasio Iranaid" (fel y'u diffinnir yn rheoliad 2(1) o O.S. 2003/2288) i fod yn ddilys ar gyfer

1. These Regulations further amend the Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003 (S.I. 2003/2288, as amended by S.I. 2004/245 and S.I. 2004/1804). Those Regulations implemented Commission Decision 97/830/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 last amended by Commission Decision 2004/429/EC (OJ No. L154, 30.04.2004, p.20). The amendments made by these Regulations implement the Commission Decision 2005/85/EC imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran (OJ No. L30, 3.2.2005, p.12), "the new Decision". The new Decision repealed Commission Decision 97/830/EC.

2. The significant differences between the new Decision and Commission Decision 97/830/EC are that -

- (a) Article 1.1 of the new Decision provides that the health certificate required to accompany a consignment of "Iranian pistachios" (defined in regulation 2(1) of S.I. 2003/2288) is to be valid for import carried out no more than 4

mewnforio a wnaed heb fod yn hwy na 4 mis ar ôl dyddiad dyroddi'r dystysgrif iechyd; a

- (b) bod Erthygl 3 o'r Penderfyniad newydd yn darparu bod costau penodol, sy'n ymwneud â'r rheolaethau mewnforio ar gnau pistasio Iranaid a osodir gan y Penderfyniad a'r costau ynglyn â mesurau swyddogol a gymerir yn erbyn llwythi o gnau pistasio Iranaid nad ydynt yn cydymffurfio â'r Penderfyniad, i'w talu gan y person sy'n gyfrifol am y llwyth.

3. Mae'r newid a ddisgrifiwyd ym mharagraff 2(a) uchod wedi'i gyflawni drwy roi diffiniad o'r Penderfyniad newydd yn lle'r diffiniad o Benderfyniad y Comisiwn 97/830/EC yn rheoliad 2(1) o O.S. 2003/2288 a gwneud newidiadau canlyniadol i reoliadau 3(1) a 4(4) o'r offeryn hwnnw (rheoliad 2(2)(a), (3) a (4)).

4. Mae'r newid a ddisgrifiwyd ym mharagraff 2(b) uchod wedi'i gyflawni drwy ddiwygio rheoliadau 3(1) a 6(1) o O.S. 2003/2288 i'w gwneud yn amod ar gyfer mewnforio bod y costau sy'n ymwneud â rheolaethau mewnforio wedi'u talu ac yn amod ar gyfer ailanfon llwythi nad ydynt yn cydymffurfio â'r rheoliadau bod y costau sy'n ymwneud â mesurau swyddogol a gymerwyd yn eu herbyn wedi'u talu (rheoliad 2(3) a (5)).

5. Mae'r Rheoliadau hyn yn mewnosod diffiniad diwygiedig o Gyfarwyddeb y Comisiwn 98/53/EC yn rheoliad 2(1) o O.S. 2003/2288 i adlewyrchu'r diwygiadau a wnaed i'r Gyfarwyddeb honno (rheoliad 2(2)(b)).

6. Mae'r Rheoliadau hyn yn mewnosod paragraff (2) newydd yn rheoliad 6 o O.S. 2003/2288, sy'n darparu y caniateir dinistrio mewnforion anghyfreithlon o gnau pistasio Iranaid os na chânt eu hailanfon o fewn y cyfnod a bennir mewn hysbysiad sy'n ei gwneud yn ofynnol iddynt gael eu hailanfon (rheoliad 2(5)).

7. Nid oes arfarniad rheoliadol wedi'i baratoi ynglŷn â'r Rheoliadau hyn

months after the issue date of the health certificate; and

- (b) Article 3 of the new Decision provides that certain costs relating to the import controls on Iranian pistachios imposed by the Decision and the costs relating to official measures taken against non-compliant consignments of Iranian pistachios are to be borne by the person responsible for the consignment.

3. The change described in paragraph 2(a) above is effected by substituting a definition of the new Decision for the definition of Commission Decision 97/830/EC in regulation 2(1) of S.I. 2003/2288 and making consequential changes to regulations 3(1) and 4(4) of that instrument (regulation 2(2)(a), (3) and (4)).

4. The change described in paragraph 2(b) above is effected by amending regulations 3(1) and 6(1) of S.I. 2003/2288 to make it a condition of import that the costs relating to import controls have been met and a condition of re-dispatch of non-compliant consignments that the costs relating to official measures taken against them have been met (regulation 2(3) and (5)).

5. These Regulations insert a revised definition of Commission Directive 98/53/EC into regulation 2(1) of S.I. 2003/2288 to reflect the amendments made to that Directive (regulation 2(2)(b)).

6. These Regulations insert a new paragraph (2) into regulation 6 of S.I. 2003/2288, which provides that illegal imports of Iranian pistachios may be destroyed if they are not re-dispatched within the period specified in a notice requiring re-dispatch (regulation 2(5)).

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

**2005 Rhif 257 (Cy.23)****2005 No. 257 (W.23)****BWYD, CYMRU****FOOD, WALES****Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) (Diwygio) 2005****The Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) (Amendment) Regulations 2005***Wedi'u gwneud* 8 Chwefror 2005*Made* 8 February 2005*Yn dod i rym* 10 Chwefror 2005*Coming into force* 10 February 2005

Mae Cynulliad Cenedlaethol Cymru, gan ei fod wedi'i ddynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2) mewn perthynas â mesurau sy'n ymwneud â bwyd (gan gynnwys diod), gan gynnwys cynhyrchu bwydydd crai, drwy arfer y pwerau a roddwyd gan yr adran honno, yn gwneud y Rheoliadau a ganlyn:

The National Assembly for Wales being designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to measures relating to food (including drink) including the primary production of food, in exercise of the powers conferred by that section, makes the following Regulations:

**Enwi a chychwyn**

1. Enw'r Rheoliadau hyn yw Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) (Diwygio) 2005 a deuant i rym ar 10 Chwefror 2005.

**Title and commencement**

1. These Regulations may be cited as the Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) (Amendment) Regulations 2005 and come into force on 10 February 2005.

**Diwygio Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) 2003****Amendments to the Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003**

2.-(1) Mae Rheoliadau Bwyd (Cnau Pistasio o Iran) (Rheolaeth Frys) (Cymru) (Rhif 2) 2003(3) wedi'u diwygio yn unol â pharagraffau (2) i (5).

2.-(1) The Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003(3) are amended in accordance with paragraphs (2) to (5).

(2) Ym mharagraff (1) o reoliad 2 (dehongli) -

(2) In paragraph (1) of regulation 2 (interpretation) -

(a) yn lle'r diffiniad o "Penderfyniad y Comisiwn" rhoddir y diffiniad canlynol -

(a) for the definition of "the Commission Decision" there is substituted the following definition -

ystyr "Penderfyniad y Comisiwn" ("*the Commission Decision*") yw Penderfyniad y Comisiwn 2005/85/EC sy'n gosod amodau arbennig ar fewnforio cnau pistasio a chynhyrchion penodol sy'n deillio o gnau pistasio sy'n tarddu o Iran, neu sydd wedi'u traddodi oddi yno(4);"; a

"the Commission Decision" ("*Penderfyniad y Comisiwn*") means Commission Decision 2005/85/EC imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran(4);"; and

(1) O.S. 2003/2901.

(2) 1972 p.68.

(3) O.S. 2003/2288 (Cy.227), a ddiwygiwyd gan O.S. 2004/245 (Cy.24) ac O.S. 2004/1804 (Cy.192).

(4) OJ Rhif L30, 3.2.2005, t.12.

(1) S.I. 2003/2901.

(2) 1972 c.68.

(3) S.I. 2003/2288 (W.227), amended by S.I. 2004/245 (W.24) and S.I. 2004/1804 (W.192).

(4) OJ No. L30, 3.2.2005, p12.

(b) yn lle'r diffiniad o "Cyfarwyddeb 98/53/EC" rhoddir y diffiniad canlynol -

"ystyr "Cyfarwyddeb 98/53/EC" ("*Directive 98/53/EC*") yw Cyfarwyddeb y Comisiwn 98/53/EC sy'n pennu'r dulliau samplu a'r dulliau dadansoddi ar gyfer rheolaeth swyddogol ar lefelau halogion penodol mewn bwydydd(1), fel y'i diwygiwyd ddiwethaf gan Gyfarwyddeb y Comisiwn 2004/43/EC(2);"

(3) Yn lle paragraff (1) o reoliad 3 (gwahardd mewnforio), rhoddir y paragraff canlynol -

"(1) Yn ddarostyngedig i baragraff (3), ni chaiff neb fewnforio i Gymru unrhyw gnau pistasio Iranaidd oni bai -

- (a) bod yr amodau a bennir yn Erthygl 1.1, 3, 5 ac (i'r graddau y mae'n yn gymwys yn y man mewnforio) 7 o Benderfyniad y Comisiwn wedi'u bodloni mewn perthynas â'r cnau pistasio hynny; a
- (b) bod y costau, sy'n deillio o'r samplu, y dadansoddi a'r storio ac o ddyroddi'r dogfennau swyddogol sy'n mynd gyda'r cnau pistasio hynny a chopïau o dystysgrifau iechyd a'r dogfennau sy'n mynd gyda'r tystysgrifau hynny yn unol ag Erthygl 1.4 i 7 o Benderfyniad y Comisiwn, wedi'u talu."

(4) Yn lle paragraff (4) o reoliad 4 (gorfodi), rhoddir y paragraff canlynol -

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

- (a) Erthygl 1.4 o Benderfyniad y Comisiwn (sy'n ymwneud â gwirio'r dogfennau sy'n berthnasol i lwythi o gnau pistasio Iranaidd);
- (b) Erthygl 1.5 ac 1.6 o'r Penderfyniad hwnnw (sy'n ymwneud â samplu a dadansoddi'r llwythi hynny), ac eithrio'r gofyniad o dan Erthygl 1.5 i roi gwybodaeth benodedig i'r Comisiwn; ac
- (c) Erthygl 1.7 o'r Penderfyniad hwnnw (sy'n ymwneud ag achosion o hollti llwythi)."

(5) Yn lle rheoliad 6 (ailanfôn neu ddinistrio mewnforion anghyfreithlon), rhoddir y rheoliad canlynol -

"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 baragraff (1) neu (2) o reoliad 3, wedi iddo ymgynghori'n briodol â pherson y mae'n ymddangos iddo mai ef yw

(b) for the definition of "Directive 98/53/EC" there is substituted the following definition -

"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(1) as last amended by Commission Directive 2004/43/EC(2);"

(3) For paragraph (1) of regulation 3 (prohibition on import) there is substituted the following paragraph -

"(1) Subject to paragraph (3), no person is to import into Wales any Iranian pistachios unless -

- (a) the conditions specified in Article 1.1, 3, 5 and (so far as applicable at the point of import) 7 of the Commission Decision are satisfied in relation to those pistachios; and
- (b) the costs resulting from sampling, analysis, storage and issuing of accompanying official documents and of copies of health certificates and accompanying documents pursuant to Article 1.4 to 7 of the Commission Decision have been met."

(4) For paragraph (4) of regulation 4 (enforcement) there is substituted the following paragraph -

"(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 Iranian pistachios);
- (b) Article 1.5 and 1.6 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) Article 1.7 of that Decision (which is concerned with the case where consignments are split)."

(5) For regulation 6 (re-dispatch or destruction of illegal imports) there is substituted the following regulation -

"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 paragraph (1) or (2) of regulation 3 he or she may after appropriate consultation with a person appearing to him or her to be the importer

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

(2) OJ Rhif L113, 20.4.2004, t.14.

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

(2) OJ No. L113, 20.4.2004, p.14.

mewnforiwr y cnau pistasio, caiff gyflwyno i'r person hwnnw hysbysiad sy'n gorchymyn -

- (a) ailanfon y cnau pistasio y tu allan i'r Gymuned Ewropeaidd o fewn y cyfnod rhesymol a bennir yn yr hysbysiad os yw'r holl gostau, sy'n gysylltiedig â'r mesurau swyddogol a gymerwyd mewn perthynas â'r cnau pistasio hynny ac sydd wedi'u nodi yn yr hysbysiad hwnnw, wedi'u talu; neu
- (b) os -
  - (i) byddai'r ailanfon hwnnw yn ei farn ef yn creu peryglon difrifol i iechyd pobl, neu
  - (ii) nad yw'r costau hynny wedi'u talu,

dinistrio'r cnau pistasio o fewn y cyfnod rhesymol a bennir yn yr hysbysiad.

(2) Os yw hysbysiad wedi'i gyflwyno o dan is-baragraff (a) o baragraff (1) ac nad yw'r cnau pistasio o dan sylw wedi'u hailanfon y tu allan i'r Gymuned Ewropeaidd o fewn y cyfnod a bennir yn yr hysbysiad, caiff swyddog awdurdodedig yr awdurdod iechyd porthladd neu'r awdurdod bwyd y cyflwynwyd yr hysbysiad gan ei swyddog awdurdodedig ef, ar ôl ymgynghori'n briodol â'r person y mae'n ymddangos iddo mai ef yw mewnforiwr y cnau pistasio, gyflwyno i'r person hwnnw hysbysiad yn ei gwneud yn ofynnol iddo ddinistrio'r cnau pistasio o fewn y cyfnod rhesymol a bennir yn yr hysbysiad.

(3) Mae hysbysiad a gyflwynir o dan baragraff (1) neu (2) i nodi:

(a) hawl i apelio i lys ynadon; a

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

(4) Caiff unrhyw berson a dramgwyddir gan benderfyniad swyddog awdurdodedig i gyflwyno hysbysiad o dan baragraff (1) neu (2) apelio i lys ynadon, a fydd yn penderfynu a ddylid cadarnhau neu ddiddymu'r hysbysiad.

(5) Chwe diwrnod o'r dyddiad y cyflwynwyd yr hysbysiad ac eithrio Sadyrnau, Suliau a gwyliau cyhoeddus yw'r cyfnod erbyn pryd y caniateir dwyn yr apêl a grybwyllwyd ym mharagraff (4) ac, at ddibenion y paragraff hwn, bennir bod gwneud yr achwyniad yn gyfystyr â dwyn yr apêl.

(6) Pan wneir apêl i lys ynadon o dan baragraff (4), mae'r weithdrefn i fod ar ffurf achwyniad er mwyn cael gorchymyn, a bydd Deddf Llysoedd Ynadon 1980(1) yn gymwys i'r achos.

of the pistachios serve on that person a notice requiring -

- (a) the re-dispatch of the pistachios outside the European Community within such reasonable period as is specified in the notice if all costs related to official measures taken in respect of those pistachios and identified in that notice have been met; or
- (b) if -
  - (i) such re-dispatch would in his or her opinion involve serious risks to human health, or
  - (ii) such costs have not been met,

the destruction of the pistachios within such reasonable period as is specified in the notice.

(2) If a notice has been served under sub-paragraph (a) of paragraph (1) and the pistachios concerned have not been re-dispatched outside the European Community within the period specified in the notice, an authorised officer of the port health authority or the food authority whose authorised officer served it may after appropriate consultation with the person appearing to him or her to be the importer of the pistachios serve on that person a notice requiring the destruction of the pistachios within such reasonable period as is specified in the notice.

(3) A notice served under paragraph (1) or (2) is to state -

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

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

(4) Any person who is aggrieved by a decision of an authorised officer to serve a notice under paragraph (1) or (2) may appeal to a magistrates' court, which is to determine whether the notice should be upheld or set aside.

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

(6) The procedure on an appeal to a magistrates' court under paragraph (4) is to be by way of complaint for an order and the Magistrates' Court Act 1980(1) applies to the proceedings.

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(1) 1980 p.43.

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(1) 1980 c.43.

(7) Os bydd y llys yn caniatáu apêl a ddygir o dan baragraff (4), rhaid i'r awdurdod o dan sylw dalu iawndal i berchennog y cnau pistasio Iranaidd o dan sylw am unrhyw ddibrisiant yn eu gwerth sy'n deillio o'r camau a gymerir gan y swyddog awdurdodedig.

(8) Penderfynir unrhyw gwestiwn y mae dadl yn ei gylch o dan baragraff (7), o ran yr hawl i gael iawndal neu swm unrhyw iawndal sy'n daladwy, drwy gymrodeddu.

(9) Bydd unrhyw berson sy'n torri amodau hysbysiad a gyflwynir o dan baragraff (1) neu (2) yn euog o dramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy heb fod yn fwy na lefel 5 ar y raddfa safonol neu i garchar am gyfnod heb fod yn fwy na thri mis."

(7) If the court allows an appeal brought under paragraph (4) the authority concerned is to compensate the owner of the Iranian pistachios concerned for any depreciation in their 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) is to be determined by arbitration.

(9) Any person who breaches the terms of a notice served under paragraph (1) or (2) is 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."

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

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

8 Chwefror 2005

8 February 2005

*D. Elis-Thomas*

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

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(1) 1998 p.38.

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(1) 1998 c.38.



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OFFERYNNAU STATUDOL

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**2005 Rhif 257 (Cy.23)**

**BWYD, CYMRU**

Rheoliadau Bwyd (Cnau Pistasio o  
Iran) (Rheolaeth Frys) (Cymru)  
(Rhif 2) (Diwygio) 2005

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**2005 No. 257 (W.23)**

**FOOD, WALES**

The Food (Pistachios from Iran)  
(Emergency Control) (Wales)  
(No.2) (Amendment) Regulations  
2005

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