
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 424

**The Food (Figs, Hazelnuts and Pistachios from Turkey)
(Emergency Control) (Scotland) (No. 2) Regulations 2002**

Re-dispatch or destruction of illegal imports

6.—(1) If on an inspection or examination of any Turkish figs, hazelnuts and pistachios it appears to an authorised officer of a 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 be the importer serve on that person a notice ordering—

- (a) the re-dispatch of the Turkish figs, hazelnuts and 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 opinion of the authorised officer involve serious risks to human health or where the period specified in a notice issued under sub-paragraph (a) has elapsed and the Turkish figs, hazelnuts and pistachios have not been re-dispatched) the destruction of the Turkish figs, hazelnuts and pistachios within such reasonable period as shall be specified in the notice.

(2) Any notice served under paragraph (1) shall state—

- (a) the right of appeal to the sheriff under paragraph (4); and

the period within which such an appeal may be brought.

(3) The importer of Turkish figs, hazelnuts and pistachios in respect of which a notice has been served under paragraph (1) shall ensure that it is stored until re-dispatch or destruction under the supervision of the authorised officer at such place and under such conditions as the authorised officer may in the notice direct.

(4) Any person who is aggrieved by the decision of an authorised officer to serve a notice under paragraph (1) may appeal to the sheriff who may affirm or cancel the notice.

(5) The period within which such an appeal as is mentioned in paragraph (4) may be brought shall be 6 days from the date on which the notice was served, exclusive of Saturdays, Sundays and public holidays.

(6) Pending the determination of an appeal under paragraph (4), paragraph (3) shall apply to storage of the Turkish figs, hazelnuts and pistachios concerned.

(7) If the sheriff allows an appeal under paragraph (4), the food authority shall compensate the owner of the Turkish figs, hazelnuts and 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) shall be determined by a single arbiter appointed, failing agreement between the parties, by the sheriff.

(9) 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.

(10) The costs of re-dispatch, storage or destruction of Turkish figs, hazelnuts and pistachios under this regulation shall be borne by the importer.