
STATUTORY INSTRUMENTS

2002 No. 334

**The Food (Star Anise from Third Countries)
(Emergency Control) (England) Order 2002**

Application of various provisions of the Act

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

- (a) section 3 (presumptions that food intended for human consumption);
- (b) section 20 (offences due to fault of another person);
- (c) section 33(1) (obstruction etc. of officers);
- (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) above; and
- (e) section 44 (protection of officers acting in good faith).

(2) Subject to paragraph (3), section 9 of the Act (inspection and seizure of suspected food) shall apply for the purposes of this Order as if it read as follows—

“9.—(1) An authorised officer of a food authority or a port health authority may at all reasonable times inspect any Star Anise for human consumption or Japanese Star Anise which—

- (a) has been sold or is offered or exposed for sale; or
- (b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale.

(2) Subsections (3) to (8) shall apply where, whether or not on an inspection carried out under subsection (1), it appears to an authorised officer that any Star Anise for human consumption or Japanese Star Anise has been imported into England in contravention of article 3(1) or, as the case may be, 3(3), of the Food (Star Anise from Third Countries) (Emergency Control) (England) Order 2002.

(3) The authorised officer may either—

- (a) give notice to the person in charge of the Star Anise concerned that, until the notice is withdrawn, the Star Anise or any specified quantity of it—
 - (i) is not to be used for human consumption, and
 - (ii) either is not to be removed or is not to be removed except to some place specified in the notice; or
- (b) seize the Star Anise and remove it in order to have it dealt with by a justice of the peace;

and any person who knowingly contravenes the requirements of a notice under paragraph (a) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Where the authorised officer exercises the powers conferred by subsection (3)(a) above, he shall, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he is satisfied that the Star Anise has not been imported in contravention of article 3(1) or, as the case may be, 3(3) of the aforesaid Order and—

- (a) if he is so satisfied, shall forthwith withdraw the notice;
- (b) if he is not so satisfied, shall seize the Star Anise and remove it in order to have it dealt with by a justice of the peace.

(5) Where an authorised officer exercises the powers conferred by subsection (3)(b) or (4)(b) above, he shall inform the person in charge of the Star Anise of his intention to have it dealt with by a justice of the peace and—

- (a) any person who under section 35(2) of this Act might be liable to a prosecution in respect of the Star Anise shall, if he attends before the justice of the peace by whom the Star Anise falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) that justice of the peace may, but need not, be a member of the court before which any person is proceeded against for an offence consisting of a contravention of article 3(1) or, as the case may be, 3(3) of the aforesaid Order in relation to that Star Anise.

(6) If it appears to a justice of the peace, on the basis of such evidence as he considers appropriate in the circumstances, that any Star Anise falling to be dealt with by him under this section has been imported in contravention of article 3(1) or, as the case may be, 3(3) of the aforesaid Order, he shall condemn the Star Anise and order—

- (a) the Star Anise to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the Star Anise.

(7) If a notice under subsection (3)(a) above is withdrawn, or the justice of the peace by whom any Star Anise falls to be dealt with under this section refuses to condemn it, the food authority or, as the case may be, port health authority, shall compensate the owner of the Star Anise for any depreciation in its value resulting from the action taken by the authorised officer.

(8) Any disputed question as to the right to or the amount of any compensation payable under subsection (7) above shall be determined by arbitration.”.

(3) The expressions “food authority”, “port health authority”, “Star Anise for human consumption” and “Japanese Star Anise”, which are used in section 9 of the Act so far as it applies for the purposes of this Order by virtue of paragraph (2) shall, for those purposes, bear the meanings that those expressions respectively bear in this Order.