

2003 No. 505

FOOD

**Food (Brazil Nuts) (Emergency Control) (Amendment)
Regulations (Northern Ireland) 2003**

Made - - - - - *4th December 2003*

Coming into operation *4th December 2003*

The Department of Health, Social Services and Public Safety, being a Department 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 the said section 2(2) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food (Brazil Nuts) (Emergency Control) (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 4th December 2003.

Amendments to the Food (Brazil Nuts) (Emergency Control) Regulations (Northern Ireland) 2003

2.—(1) The Food (Brazil Nuts) (Emergency Control) Regulations (Northern Ireland) 2003(c) shall be amended in accordance with paragraphs (2) and (3).

(2) For paragraphs (1) and (2) of regulation 6 (re-dispatch or destruction of illegal imports) there shall be substituted the following paragraphs –

“(1) If on sampling or analysis of any Brazil nuts it appears to an authorised officer that they do not comply with the maximum levels for aflatoxin B1 and aflatoxin total established by Commission Regulation (EC) No. 466/2001 setting maximum levels for certain contaminants in foodstuffs(d) he 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 Brazil nuts to the country of origin within such reasonable period as shall be specified in the notice, but only if the conditions specified in points (a) to (c) of Article 6 of the Commission Decision are complied with; or
- (b) (where those conditions are not complied with) the destruction of the Brazil nuts within such reasonable period as shall be so specified.

(2) The notice served under paragraph (1) shall state –

- (a) the right of appeal to a court of summary jurisdiction; and
- (b) the period within which such an appeal may be brought.”.

(a) S.I. 2000/2812
(b) 1972 c. 68
(c) S.R. 2003 No. 353
(d) O.J. No. L77, 16.3.2001, p. 1

(3) For paragraph (4) of regulation (6) there shall be substituted the following paragraph –

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

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 4th December 2003.

(L.S.)

Deirdre Kenny

A Senior Officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Food (Brazil Nuts) (Emergency Control) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 353).

They bring the rules governing the re-dispatch of consignments of Brazil nuts which are found to have excessive levels of aflatoxin B1 and aflatoxin total into line with the requirements of Article 6 of Commission Decision 2003/493/EC imposing special conditions on the import of Brazil nuts in shell originating in or consigned from Brazil (O.J. No. L168, 5.7.2003, p. 33) (regulation 2(2)).

These Regulations remove unnecessary wording from the provision in S.R. 2003 No. 353 (regulation 6(2)) which provides that a notice ordering the re-dispatch or destruction of illegal imports of Brazil nuts has to contain information about the right of appeal (regulation 2(2)).

These Regulations also revise regulation 6(4) of S.R. 2003 No. 353 to clarify that on an appeal to a court of summary jurisdiction against a notice ordering the re-dispatch or destruction of illegal imports of Brazil nuts the court must uphold the notice or set it aside (regulation 2(3)).

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£1.75

Published by The Stationery Office Limited

ISBN 0-337-95310-4



Printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly
Dd. N1308. C2. 12/03. Gp. 130. 14567.