

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2003 No. 558**

**The Food (Brazil Nuts) (Emergency Control)  
(Scotland) Amendment Regulations 2003**

**Citations and commencement**

1. These Regulations may be cited as the Food (Brazil Nuts) (Emergency Control) (Scotland) Amendment Regulations 2003 and shall come into force on 12th December 2003.

**Amendment of the Food (Brazil Nuts) (Emergency Control) (Scotland) Regulations 2003**

2.—(1) The Food (Brazil Nuts) (Emergency Control) (Scotland) Regulations 2003(1) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(b) (interpretation), for “(1)” there shall be substituted “(a)”.

(3) In regulation 3(1)(a) (prohibition on import), for “and 3.1” there shall be substituted “, 3.1 and 5”.

(4) In regulation 4(3)(c) (enforcement), for “in so far as it relates to the certification of copies of the health certificate and accompanying documents” there shall be substituted “of that Decision (which is concerned with the case where consignments are split)”.

(5) In regulation 5(3) (application of various provisions of the 1990 Act and sampling and analysis), for “it shall be ensured” there shall be substituted “the authorised officer shall ensure”.

(6) For regulation 6 (disposal of illegal imports) there shall be substituted—

“6.—(1) If on an inspection or examination of any Brazil nuts it appears to an authorised officer of a food authority that they have been imported in contravention of regulation 3(1) (a) 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 Brazil nuts outside the European Community within such reasonable period as shall be specified in the notice; or
- (b) where the period specified in a notice issued under sub-paragraph (a) has elapsed and the Brazil nuts have not been re-dispatched, the destruction of the Brazil nuts within such reasonable period as shall be specified in the notice.

(2) 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 3 months.”.

(7) For regulation 7 (disposal of imports following sampling and analysis) there shall be substituted—

“7.—(1) If following sampling and analysis any Brazil nuts have been issued with an official document in accordance with Article 4.4 of the Commission Decision showing that the consignment does not comply with the provisions of Regulation (EC) No. 466/2001 as

regards maximum levels for aflatoxin B1 and total aflatoxin, the authorised officer shall after appropriate consultation with a person appearing to be the importer serve on that person a notice ordering the disposal of the Brazil nuts in accordance with the requirements of Article 6 of the Commission Decision.

(2) 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.”.

(8) For regulation 8 (storage of imports) there shall be substituted—

“**8.**—(1) The person on whom a notice has been served under regulations 6 or 7 above shall ensure that the Brazil nuts to which the notice applies are stored until re dispatch or destruction under the supervision of the authorised officer at such places and under such conditions as the authorised officer may in the notice direct.

(2) The costs of such storage referred to in paragraph (1) and of the re-dispatch or destruction of the Brazil nuts under regulation 6 or 7 shall be borne by the importer.”.

(9) In regulation 9 (appeals)—

- (a) in paragraph (6), for “(6)” there shall be substituted “(5)”; and
- (b) paragraphs (7) and (8) shall be omitted.

St Andrew’s House, Edinburgh  
18th November 2003

*TOM McCABE*  
Authorised to sign by the Scottish Ministers