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STATUTORY INSTRUMENTS

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**1992 No. 3236**

**Aflatoxins in Nuts, Nut Products, Dried Figs  
and Dried Fig Products Regulations 1992**

**Defences**

**10.**—(1) In any proceedings for an offence against these Regulations it shall be a defence for the person charged to prove that the food, in respect of which the offence is alleged to have been committed—

- (a) was intended for export and complied with the importing country's domestic food legislation relevant to the alleged offence; or
- (b) was intended for export and was prepared and labelled for sale before 31st December 1992.

(2) In any proceedings for an offence against these Regulations consisting of the consumer sale of nuts, nut products, dried figs or dried fig products or any of them containing a level of total aflatoxins of more than 4 micrograms per kilogram of the food, it shall be a defence to show that the nuts or dried figs, or in the case of nut products or dried fig products the nut or dried fig element of such products, in relation to which the offence is alleged to have been committed comes from a lot or batch of nuts or dried figs that has previously been certified by an analytical laboratory (further to sampling and analysis carried out in accordance with Schedule 4) as containing a level of total aflatoxins of no more than 4 micrograms per kilogram of, as the case may be, nuts or dried figs.

(3) For the purposes of paragraph (2) above, "analytical laboratory" means any laboratory which—

- (a) was, at the time of giving the certificate in question, a participant in a proficiency testing scheme which conformed to the International Harmonised Protocol for the Proficiency Testing of (Chemical) Analytical Laboratories prepared, jointly, by the International Union of Pure and Applied Chemistry, the International Standards Organisation and the AOAC International, and
- (b) in the round of testing conforming to that Protocol which took place closest to the date of performing the analysis on the basis of which the certificate in question was given, achieved Z scores (as defined in that Protocol) of between - 3 and + 3 (inclusive).