

2003 No.2988

FOOD, ENGLAND

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

<i>Made</i>	- - - -	<i>19th November 2003</i>
<i>Laid before Parliament</i>		<i>24th November 2003</i>
<i>Coming into force</i>		<i>25th November 2003</i>

The Secretary of State, being a Minister 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 him by that section, makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Food (Brazil Nuts) (Emergency Control) (England) (Amendment) Regulations 2003 and shall come into force on 25th November 2003.

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

2.—(1) The Food (Brazil Nuts) (Emergency Control) (England) Regulations 2003(c) shall be amended in accordance with paragraph (2).

(2) For paragraphs (1) to (3) 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 of a port health authority or as the case may be food authority 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 magistrates’ court; and

(a) S.I. 1972/1811, amended by S.I. 2002/794.
(b) 1972 c. 68.
(c) S.I. 2003/1722.
(d) OJ No. L77, 16.3.2001, p.1.

(b) the period within which such an appeal may be brought.

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

Signed by authority of the Secretary of State for Health

19th November 2003

Melanie Johnson
Parliamentary Under Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food (Brazil Nuts) (Emergency Control) (England) Regulations 2003 (S.I. 2003/1722).

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 (OJ No. L168, 5.7.2003, p.33) (*regulation 2(2)*).

These Regulations remove unnecessary wording from the provision in S.I. 2003/1722 (*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(3)* of S.I. 2003/1722 to clarify that on an appeal to a magistrates' court 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(2)*).

No regulatory impact assessment has been prepared in relation to these Regulations.

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