Statutory Instrument 2004 No. 142

The Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (England) (Amendment) Regulations 2004

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STATUTORY INSTRUMENTS

2004 No. 142

FOOD, ENGLAND

The Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (England) (Amendment) Regulations 2004

Made	*26th January 2004*
Laid before Parliament	*26th January 2004*
Coming into force	*27th January 2004*

The Secretary of State, being a Minister designated[1] for the purposes of section 2(2) of the European Communities Act 1972[2] 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 (Hot Chilli and Hot Chilli Products) (Emergency Control) (England) (Amendment) Regulations 2004 and shall come into force on 27th January 2004.

Amendments to the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (England) Regulations 2003

2. - (1) The Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (England) Regulations 2003[3] shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) of regulation 2 (interpretation) -

(a) for the definition of "the Commission Decision" there shall be substituted the following definition -

" "the Commission Decision" means the Commission Decision of 21st January 2004 on emergency measures regarding chilli and chilli products[4];"; and

(b) for the definition of "hot chilli and hot chilli products" there shall be substituted the following definition -

" "hot chilli and hot chilli products" means -

(a) fruits of the genus Capsicum, dried and crushed or ground within CN Code 09042090; and

(b) curry powder within CN Code 091050;".

(3) For paragraphs (2) and (3) of regulation 6 (destruction of illegal imports) there shall be substituted the following paragraphs -

" (2) The notice served under paragraph (1) shall state -

(a) the right of appeal to a magistrates' court; and

(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

Melanie Johnson
Parliamentary Under Secretary of State, Department of Health

26th January 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (England) Regulations 2003 (S.I. 2003/1940) to implement the Commission Decision of 21st January 2004 on emergency measures regarding chilli and chilli products ("the new Decision"). That Decision repealed Commission Decision 2003/460/EC on emergency measures regarding hot chilli and hot chilli products (OJ No. L154, 21.6.2003, p.114).

The differences between the new Decision and Commission Decision 2003/460/EC are that -

(a) the new Decision extends in relation to curry powder the emergency measures previously set out in Commission Decision 2003/460/EC in relation to chillies which have been dried and crushed or ground. This change is implemented by inserting a revised definition of "hot chilli and hot chilli products" into S.I. 2003/1940 (*regulation 2(2)(b)*); and

(b) the new Decision amends the conditions for import of chilli and chilli products by providing that import is now prohibited unless the analytical report accompanying the consignment shows that the product not only does not contain Sudan I (CAS Number 842-07-9) but additionally does not contain Sudan II (CAS Number 3118-97-6), Sudan III (CAS Number 85-86-9) or Scarlet Red or Sudan IV (CAS Number 85-83-6). This change is implemented by inserting a revised definition of "the Commission Decision" into S.I. 2003/1940 (*regulation 2(2)(a)*).

These Regulations remove unnecessary wording from the provision in S.I. 2003/1940 (regulation 6(2)) which provides that a notice ordering the destruction of illegal imports of hot chilli and hot chilli products has to contain information about the right of appeal (*regulation 2(3)*).

These Regulations also revise regulation 6(3) of S.I. 2003/1940 to clarify that on an appeal to a magistrates' court against a notice ordering the destruction of illegal imports of hot chilli and hot chilli products the court must uphold the notice or set it aside (*regulation 2(3)*).

The CN codes referred to in the definition of "hot chilli and hot chilli products" are the code numbers of the combined nomenclature established by Regulation 2658/87 on the tariff and statistical nomenclature and on the customs tariff (OJ No. L256, 7.9.87, p.1).

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

Notes:

[1] S.I. 1972/1811.back

[2] 1972 c. 68.back

[3] S.I. 2003/1940.back

[4] OJ No. L .back

ISBN 0 11 048487 8

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