

Welsh Statutory Instrument 2004 No. 245 (W.24)

The Food (Emergency Control) (Miscellaneous Amendments) (Wales) Regulations 2004

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STATUTORY INSTRUMENTS

2004 No. 245 (W.24)

FOOD, WALES

The Food (Emergency Control) (Miscellaneous Amendments) (Wales) Regulations 2004

<i>Made</i>	<i>4th February 2004</i>
<i>Coming into force</i>	<i>8th February 2004</i>

The National Assembly for Wales, being 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 it by that section makes the following Regulations:

Title, commencement and application

1. - (1) These Regulations may be cited as The Food (Emergency Control) (Miscellaneous Amendments) (Wales) Regulations 2004 and shall come into force on 8th February 2004.

(2) These Regulations apply to Wales only.

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

2. - (1) The Food (Brazil Nuts) (Emergency Control) (Wales) Regulations 2003^[3] 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) substitute the following paragraphs -

" (1) If on an inspection or examination 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^[4] the authorised officer may after appropriate consultation with a person appearing to the authorised officer 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

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

(3) In paragraph (3) of regulation 6 for the words "was lawfully served" substitute "should be upheld or set aside".

Amendments to the Food (Pistachios from Iran) (Emergency Control) (Wales) (No. 2) Regulations 2003

3. - (1) The Food (Pistachios from Iran) (Emergency Control) (Wales) (No.2) Regulations 2003^[5] shall be amended in accordance with paragraphs (2), (3) and (4).

(2) In paragraph (2) of regulation 6 omit the words "In any case where such an appeal as is mentioned in paragraph (3) may be brought".

(3) In paragraph (3) of regulation 6 for the words "was lawfully served" substitute "should be upheld or set aside".

(4) In regulation 7 omit the words "The Food (Pistachios from Iran) (Emergency Control) Order 1997, The Food (Pistachios from Iran) (Emergency Control) (Amendment) Order 1997 and".

Amendments to the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Wales) Regulations 2003 and the Food (Peanuts from Egypt) (Emergency Control) (Wales) Regulations 2003

4. - (1) The Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Wales) Regulations 2003^[6] and the Food (Peanuts from Egypt) (Emergency Control) (Wales) Regulations 2003^[7] shall be amended in accordance with paragraphs (2) and (3).

(2) In each case, in paragraph (2) of regulation 6 the words "In any case where such an appeal as is mentioned in paragraph (3) may be brought" shall be omitted.

(3) In each case, in paragraph (3) of regulation 6 for the words "was lawfully served" substitute "should be upheld or set aside".

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998^[8]

D. Elis-Thomas
The Presiding Officer of the National Assembly

4th February 2004

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Food (Brazil Nuts) (Emergency Control) (Wales) Regulations 2003 (S.I. 2003/2254 (W.224)); the Food (Pistachios from Iran) (Emergency Control) (Wales) (No. 2) Regulations 2003 (S.I. 2003/288 (W.227)); the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Wales) Regulations 2003 (S.I. 2003/2455 (W.238)); and the Food (Peanuts from Egypt) (Emergency Control) (Wales) Regulations 2003 (S.I. 2003/2910 (W.276)) which are collectively known for the purposes of this Explanatory Note as "the Food Regulations".

These Regulations remove unnecessary wording from regulation 6(2) of the respective Food Regulations which provide that a notice ordering the re-dispatch or destruction of illegal imports has to contain information about the right of appeal.

These Regulations also amend regulation 6(3) of the respective Food Regulations in order to ensure that the Magistrates' Court can determine both whether a notice served by an authorised officer under regulation 6(1) has been

correctly served and also whether importation of the product in question is lawful.

These Regulations also specifically amend the Food (Brazil Nuts) (Emergency Control) (Wales) Regulations 2003 (S.I. 2003/2254 (W.224)). They revise the procedure to be followed when an inspection or examination of Brazil nuts reveals 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 (OJ No. L77, 16.3.2001, p.1) (regulation 2(2)). The revised procedure accords with Commission Decision 2003/493/EC imposing special conditions on the import of Brazil nuts in shell originating or consigned from Brazil (OJ No. L168, 5.7.2003, p.33).

These Regulations (regulation 3(4)) also specifically amend the Food (Pistachios from Iran) (Emergency Control) (Wales) (No. 2) Regulations (S.I. 2003/2288 (W.227)) to correct a drafting error.

No regulatory appraisal has been prepared in respect of these Regulations.

Notes:

- [1] S.I. 1999/2788.[back](#)
- [2] 1972 c. 68.[back](#)
- [3] S.I. 2003/2254 (W. 224).[back](#)
- [4] OJ No. L77, 16.3.2001, p.1.[back](#)
- [5] S.I. 2003/2288 (W. 227).[back](#)
- [6] S.I. 2003/2455 (W. 238).[back](#)
- [7] S.I. 2003/2910 (W. 276).[back](#)
- [8] 1998 c.38.[back](#)

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